FILE COPY

Office - Supreme Court, U. S.
FILED
MAY 10 1943
CHARLES ELMORE CROPLEY
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942

GORDON K. HIRABAYASHI
vs.
THE UNITED STATES OF AMERICA. } No. 870.

MINORU YASUI
vs.
THE UNITED STATES OF AMERICA. } No. 871.

BRIEF *AMICUS CURIAE*

JAPANESE AMERICAN CITIZENS LEAGUE,
Amicus Curiae.

SABURO KIDO,
A. L. WIRIN,
HUGH E. MACBETH,
CLIFFORD FORSTER,
Counsel.

APPEAL PRINTING CO., INC., 130 CEDAR ST., NEW YORK, WO 2-3242

INDEX

PAGE

The interest of the Japanese American Citizens League 1

Argument:

The military orders aimed only against, and affecting only, American citizens of a particular race or ancestry violate the minimum requirements of equality inherent in due process of law 10

1. There is no proof that those of Japanese ancestry are a more dangerous group than any other 12

2. No problem of dual nationality exists 20

3. Japanese language schools were neither unique nor subversive 40

4. Alleged Shintoism is no valid ground for the discriminatory orders 49

5. Possibility of civil disorder exaggerated; vigilantism is no constitutionally adequate ground for suppression of civil rights, or for racial discrimination; "protective custody" unwarranted 53

6. Discrimination not justified merely because any attack might come from Japan 61

7. The argument that these people have been alienated by past treatment answered 64

8. Behavior of these Americans of Japanese ancestry could have been anticipated; Hawaiian Islands *versus* Pacific Coast, a contrast 68

9. Military orders due to race prejudice 73

(a) Organized anti-Japanese agitation had set the stage for evacuation 73

(b) Selfish interests took advantage of the war situation to advocate evacuation 80

PAGE

10. Americans of Japanese ancestry are just as loyal as any other group of American citizens 88

11. The discriminatory evacuation of American citizens of Japanese ancestry has violated the solemn pledges of high government officials and departments of government 107

12. American principles have been gravely compromised by evacuation 113

13. Evacuation has been detrimental to the war effort 115

Conclusion 125

Appendix A—Portion of Statement of Mike Masaoka, Secretary, Japanese American Citizens League, explaining why he volunteered 127

Appendix B—Books and pamphlets 129

Appendix C—Articles 135

Cases

DeJonge *v.* Oregon, 299 U. S. 353..... 89

Edwards *v.* California, 314 U. S. 160..... 11

Herndon *v.* Lowery, 301 U. S. 242..... 89
Hill *v.* Texas, 316 U. S. 400..... 12

Skinner *v.* Oklahoma, 316 U. S. 535..... 12

Truax *v.* Corrigan, 257 U. S. 312..... 10

U. S. ex rel. Vajtauer *v.* Cormick, 273 U. S. 103..... 90
U. S. *v.* Yount, 267 Fed. 861..... 11

Whitney *v.* California, 274 U. S. 357..... 88

Yick Wo *v.* Hopkins, 118 U. S. 356..... 10
Yu Cong Eng *v.* Trinidad, 271 U. S. 500..... 11

Miscellaneous References

PAGE

A Touchstone of Democracy; The Japanese in America, published by Congregational Churches 87

Bailey, Thomas A.: Theodore Roosevelt and the Japanese American Crisis 74, 79

Bell, Reginald: Public School Education of Second-Generation Japanese, Stanford Univ. Press, 1935 ..... 44, 47, 48

Biddle, Francis: "The Problem of the Alien Enemies." *Free World,* Aug. 1942, Vol. III, No. 3, pp. 201-4 67

Blake, Thomas Clark:
Remember Pearl Harbor 69
"Some Japanese in Hawaii, *Asia,* 1942 69
"Japanese in Hawaii", *New Republic,* September 14, 1942 69

Boas, Franz: The Mind of Primitive Man 95

Borchard, Edwin M.: The Diplomatic Protection of Citizens Abroad, or The Law of International Claims. Banks Law Publishing Co., New York, 1927 ..... 22, 23, 38

Bouslog, Charles S.: "Hawaii Shows Japan and Asia." *Asia and the Americans,* Feb. 1943, pp. 107-110, 111-114 69

Bouvier's Law Dictionary, 1934 Edition, p. 769 90

Buell, Raymond Leslie:
"Development of Anti-Japanese Agitation in the U. S." *Political Sci. Quarterly,* 1923 79
"Some Legal Aspects of the Japanese Question." *American Journal of International Law,* Jan. 1923, 17:29-49 28

Census of the United States, 16th, 1940 ..... 13, 19

Chafee, Z.: Free Speech in the United States 89

Chamberlin, William Henry:
"Civil Liberties: Slogan or Reality?" *Christian Century,* Jan. 13, 1943, pp. 43-45 124
"Why Civil Liberties Now?" *Harpers Magazine,* Oct. 1942, No. 1109, pp. 525-34 54

PAGE

Christian Century, The:
Mar. 25, 1942, p. 397 52
May 6, 1942, p. 612 52
June 10, 1942, pp. 750-52 51
Colket, G. Hamilton: "Suppressing Japanese Schools in Hawaii." *Nation*, 115: 558-9, Nov. 22, 1922 41
Congressional Record:
Dec. 15, Appendix 108
Dec. 16, Appendix 109
Dec. 12, 1941, Appendix 56
Feb. 17, 1942, p. 1371 18
Feb. 18, 1942, p. 1458 20
Coolidge, Mary Roberts: Chinese Immigration 75, 76, 77
Cranston, Alan: "Enemy Aliens." *Common Ground*, Winter, 1942, Vol. II, No. 2, pp. 109-112 67

Far Eastern Survey (editorial): "Fuel for Japanese Propaganda," June 1, 1942, p. 122 117
Fischer, Louis: "West Coast Perspective," *Nation*, Mar. 7, 1942, pp. 276-77 58
Flournoy, Richard W.:
"Dual Nationality and Election." *Yale Law Journal*, Apr. 1921, Vol. 30, No. 6, pp. 545-567 21
"Revision of Nationality Law of the United States." *American Journal of International Law*, Vol. 34, 1940, No. 1, Jan. pp. 36-46 36

Gosnell, Harold F.: "Symbols of National Solidarity." *Annals of American Academy of Social and Political Science*, Sept. 1942, Vol. 223, pp. 157-61 120

Harpers Magazine: "The Japanese in America." October, 1942, pp. 496-497 ..... 92, 93
Hearings before the Joint Committee on Hawaii, Congress of the United States, 75th Congress, 2d Session, Oct. 6 to 22, 1937, p. 197 38
Howard, Harry Paxton: "Americans in Concentration Camps." *The Crisis*, Sept. 1942, pp. 281-84, 301-2 122
Hyde, C. C.: International Law, Chiefly as Interpreted by the U. S., 1922, pp. 658, 666-669 24

PAGE

Ichihashi, Yamato: The Japanese in the U. S., Stanford Univ. Press, 1932 ..... 27, 29, 48

Iglehart, Charles: "Citizens Behind Barbed Wire." *The Nation*, June 6, 1942, Vol. 154, No. 23, pp. 649-51 59

Inui, Kujo Sue: The Unsolved Problem of the Pacific, Tokyo, 1927 ..... 26, 29

Japan Review, April, 1921, pp. 94, 95 ..... 35, 101

Japanese American Review, Jan. 25, 1941, p. 6 35

Jennings, H. S.: Prometheus 95

Kawakami, K. K.:

American Japanese Relations, pp. 304, 5: 324-325 78

The Real Japanese Question. The Macmillan Company, New York, 1921 ..... 27, 28, 78

Kempner, Robt. M. W.: "The Enemy Alien Problem in the Present War." *American Journal of International Law*, July, 1940, Vol. 34, No. 3, pp. 443-458 65

Koessler, Maximilian: "Enemy Alien Internment with Special Reference to Great Britain and France." *Political Science Quarterly*, Mar. 1942, Vol. 57, No. 1 ..... 65, 66

Kuykendall, Ralph and Gregory, Herbert E.: A History of Hawaii. The Macmillan Company, 1933 41

Linton, R.: Study of Man. Columbia University 94

Loomis, Charles F.: "Can Hawaii Take It?" *Hawaii Educational Review*, Apr. 1942, p. 231 69

Los Angeles Daily News:

July 30, 1942 63

Nov. 6, 1942 63

Los Angeles Times:

Nov. 13, 1941 70

Nov. 20, 1941 102

Nov. 28, 1941 70

July 8, 1942 63

PAGE

Malloy, Wm. M.: Treaties, Conventions, International Acts, Protocols and Agreements between The United States of America and Other Powers, 1910-1923, 67th Cong. 4th Session. Senate Document No. 348. Vol. VIII caintaining Treaties, Conventions, International Acts, Protocols, and Agreements between the U. S. of America and Other Powers, 1776-1909. Washington Government Post Office, 1923 25

McKenzie, R. D.: Oriental Exclusion. Chicago: University of Chicago Press, 1928..... 48

Mears, E. G.: Resident Orientals on the American Pacific Coast, 1928 .....29, 44, 74

Menefee, Selden C.: "How to Speak to Japan." *Nation,* Jan. 2, 1943, pp. 17-18..... 120

Millis, Harry A.: The Japanese Problem in the United States, New York: The Macmillan Company, 1915..46, 79

Miyaoka, Tsunejiro: "The Japanese Law of Nationality and the Rights of Foreigners in Land Under the Laws of Japan." International Conciliation: Carnegie Endowment for International Peace: Division of Intercourse and Education. No. 206 Jan. 1925, p. 15..... 29

Moore, John Bassett:

American Diplomacy. New York and London, Harper & Brothers Publishers, 1905.....24, 25

A Digest of International Law, 1906.....23, 37

Negoro, M.: "A Defense Against an Unmerited Attack." *Japan Review,* Vol. V, No. 14, Dec. 1921, pp. 253-256 39

Neuberger, R. L.: "Reveille in the Northwest," *The Nation,* Dec. 20, 1941, p. 638 56

New York Times:

Dec. 4, 1941 107

Dec. 11, 1941 70

Dec. 13, 1941 70

Jan. 30, 1942 70

Feb. 1, 1942 71

PAGE

Feb. 5, 1942 72
Feb. 22, 1942 80
March 10, 1942 115
April 6, 1942 ..... 65, 68
May 23, 1942 117
June 6, 1942 61
June 13, 1942 14
June 29, 1942 112
June 29, 1942 63
July 19, 1942 112
Aug. 4, 1942 118

Office of War Reports: "A Week of War." January 30, 1942 71

Pacific Citizen:
Jan., 1942 92
March 1, 1942, p. 1 66
June 4, 1942, p. 5 67
Oct. 15, 1942, p. 4 68
April 29, 1943 91

Palmer, Albert Wentworth: Orientals in American Life. New York: Friendship Press, 1934 ..... 44, 46

Radin, Paul: The Italians of San Francisco, Their Adjustment and Acculturatio. Monograph No. 1: Introduction and Part I SERA Project 2-F2-98, July 1935 ..... 15, 16

Reuter, E. B. (editor): Race and Culture Contacts. New York: McGraw-Hill, 1934 47

Rowell, Chester H.: "Clash of Two Worlds." *Survey Graphic*, Jan. 1942, pp. 9-13 57

San Francisco Chronicle: May 17, 1942 124

Smith, William C.:
Americans in Process: A Study of Our Citizens of Oriental Ancestry. Ann Arbor: Edwards Brothers, 1937 ..... 26, 29, 42, 96
Americans in the Making: The Natural History of the Assimilation of Immigrants. Appleton-Century, 1939 42

PAGE

Stearns, Marjorie R.: History of the Japanese People in Oregon. Thesis Series, No. 4, University of Oregon, Eugene, Oregon, 1937 48

Stowell, Ellery Cory: International Law. A Restatement of Principles in Conformity with Actual Practice. New York: Henry Holt & Company, 1931, pp. 190-191 ..... 24, 37

Strong, Edward K.:

Japanese in California. Stanford University Press, 1933 ..... 29, 33, 99

The Second-Generation Japanese Problem. Stanford University Press, 1934 ..... 26, 33, 43, 45, 51, 97

Vocational Aptitudes of Second Generation Japanese 98

Survey, May 1, 1926, p. 173 101

Survey Graphic: January 1942, p. 13 110

Svensrud, Marian: "Attitudes of the Japanese toward their Language School", *Sociology and Social Research*, Vol. 17, Jan.-Feb. 1933, pp. 259-64 43

Taylor, Frank J.: "The People Nobody Wants," *Saturday Evening Post*, May 9, 1942, p. 24 et seq. 81

Tolan:

Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session. *National Defense Migration*, Part 29, San Francisco Hearings, February 21 and 23, 1942. "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942 ..... 2, 4, 40, 84, 87, 111

Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session. *National Defense Migration*, Part 30, Portland and Seattle Hearings, February 26 and 28, and March 2, 1942, "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942 ..... 82, 83, 123

PAGE

Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session. *National Defense Migration,* Part 31, Los Angeles and San Francisco Hearings, March 6, 7, and 12, 1942, "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942..41, 68, 92, 93

Fourth Interim Report of the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session, *National Defense Migration,* House Report No. 2124, May, 1942, "Findings and Recommendations on Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942.....17, 18, 51, 69, 79

House Report No. 1911, 77th Congress, 2d Session, March 19, 1942, pp. 1-2 .....55, 90, 114

United States News: August 28, 1942..... 118

Victory: September 29, 1942, p. 30..... 119

Washington Post, April 14, 1943..... 114

Young, Donald: American Minority Peoples, 1932, pp. 214-215 24

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942

GORDON K. HIRABAYASHI *vs.* THE UNITED STATES OF AMERICA.	No. 870
MINORU YASUI *vs.* THE UNITED STATES OF AMERICA.	No. 871.

BRIEF *AMICUS CURIAE*

The interest of the Japanese American Citizens League.

The Japanese American Citizens League is a national organization of more than 20,000 loyal American citizens of Japanese ancestry in all parts of this country. Its membership includes all strata of Japanese American society and represents more than one-half of the estimated 35,000 American-born Japanese on the mainland who are 18 years of age or more. Its members are required to furnish proof of citizenship in addition to signing a special oath of allegiance to the United States.

It was formally organized to protect the interests of its members and of all loyal Japanese Americans in 1930, although a number of chapters existed during the previous

decade. It was incorporated in 1937. Its programs and its aims are sloganized: "For Better Americans in a Greater America".

Because of its consistent adherence to the principles of Americanism; its civic, social, and educational services to the Japanese community; and its cooperation with local, state, and federal officials, it has won general recognition from responsible government agencies and private organizations as the spokesman for loyal Americans of Japanese descent. Indeed, Galen M. Fisher, adviser to the Institute of Pacific Relations and secretary of the Committee on National Security and Fair Play, declared before the Tolan Committee in San Francisco: "In connection with the whole question of citizens of Japanese stock, I wish to testify to the great service to our Nation already rendered by the Japanese American Citizens League. It is the only inclusive organization touching the Nisei (American-born Japanese) and it can be of great value in maintaining their undivided loyalty to the United States".[1]

The thoroughly American spirit and purpose of the Citizens League are expressed in the Japanese American Creed, written by Mike Masaoka, National Secretary and Field Executive, many months before the outbreak of the war. It was fully endorsed by all members, read before the United States Senate, and printed in the Congressional Record, May 9, 1941.

This credo reads:

> "I am proud that I am an American Citizen of Japanese ancestry, for my very background makes me appreciate more fully the wonderful advantages of this Nation. I believe in her institutions, ideals, and traditions; I glory in her heritage; I boast of her history; I trust in her future * * *.

1. Hearing before Select Committee investigating National Defense Migration, House of Representatives, 77th Congress, Second Session, Part 29, San Francisco Hearings, p. 11,200.

"Although some individuals may discriminate against me, I shall never become bitter or lose faith for I know that such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way—above board, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair play will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.

"Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her, I pledge myself to do honor to her at all times and in all places; to support her Constitution; to obey her laws; to respect her flag; to defend her against all enemies, foreign or domestic; to actively assume my duties and obligations as a citizen, cheerfully and without any reservations whatsoever, in the hope that I may become a better American in a greater America."

The undeviating policy of the National Japanese American Citizens League in opposition to the Axis aggressors is a clear and open record.

In calling for fair play toward loyal Japanese, a citizens committee on the Pacific Coast, headed by General David P. Barrows, Monroe E. Deutsch, Robert Gordon Sproul, and Ray Lyman Wilbur, circularized a letter December 29, 1941, reading in part:

"The Japanese American Citizens League, consisting of some 8,000 citizens of Japanese ancestry (in the San Francisco Bay area), has made repeated pronouncements of loyalty to the United States and of opposition to the aggressive policies of Japan. * * * Many such Japanese have encouraged

> their sons to enter the United States armed forces and have subscribed to Defense Bonds.
>
> "We appeal to all our members and to all citizens who see this statement to make its contents widely known, and to cooperate actively in insuring fair play and security to all law-abiding Japanese residents."[2]

Upon the outbreak of war between the United States and Japan, Saburo Kido, national president, sent the following wire to President Roosevelt, a statement which received wide publicity through the newspapers and radio services:

> "The Japanese Americans are stunned and horrified at this morning's unwarranted attack by Japan upon American soil, our country.
>
> "We want to convey to you that we unequivocally condemn Japan for this unprecedented breach of good faith.
>
> "In behalf of our (then) 15,000 members in the (then) 56 chapters of our National Japanese American Citizens League, we unreservedly volunteer the facilities of our office to the defense of our land against this attack.
>
> "In this solemn hour we pledge our fullest cooperation to you, Mr. President, and to our country.
>
> "We appreciate the efforts you have made to preserve peace in the Pacific, but now that Japan has instituted this attack upon our land, we are ready and prepared to expend every effort to repel this invasion together with our fellow Americans."

Every chapter ratified their president's declarations by special action. The Northern California District Council, one of the major organizational subdivisions of the National, for example, unanimously adopted and forwarded this resolution:

---

2. Tolan Committee Reports, San Francisco hearings, p. 11,200.

"To the President and the Congress of the United States of America:

"Greetings:

"Whereas, we American citizens of Japanese ancestry, appreciative of our priceless heritage of American traditions and ideals of liberty, fair play, and sportsmanship, do unanimously condemn the infamous and perfidious attack of the Imperial Japanese Government upon our American soil; and

"Whereas, it is the sacred privilege of every American, regardless of race, color, and national origin, to uphold our country in our lives and with our lives against those dogmas of might, treachery, and the annihilation of those truths we hold so dear;

"Now, therefore, be it resolved by the unanimous action of the 27 chapters of the Northern California District Council of the Japanese American Citizens League, convened in special session in San Francisco, California, this 21st day of December, 1941, that we do hereby urge and direct every American citizen of Japanese extraction to volunteer for the military and the civilian defense of our beloved land;

"To purchase United States Defense Bonds and Stamps to help finance the defeat of the Axis powers;

"To cooperate with the Federal Bureau of Investigation, the Navy and Army Intelligence services, and every other constituted agency in the ferreting out of subversive and inimical activities and elements;

"To support the state and local government officials and organizations in their efforts to preserve law and order;

"To participate in the Red Cross, Community Chest, and other social service agencies dedicated to the furtherance of the common welfare;

"To conserve as well as to promote the production of those vital materials necessary to the national defense;

"To do everything possible to insure the complete and ultimate victory of freedom's forces over those of greed, hate, and tyranny;

"That we do hereby offer, unreservedly, our organizational and individual services and facilities to our government in any capacity which they may deem necessary and proper; and

"That we do hereby pledge 'our lives, our fortunes, and our sacred honor' to the end that government 'of the people, by the people, and for the people shall not perish from the earth'."

That the character of this association is recognized by Brigadier General Lewis B. Hershey, Director of the Selective Service, is evidenced by this message sent to the League shortly after the present conflict began:

"I note with pleasure that your organization, the Japanese American Citizens League, has banded together some (then) 15,000 young American citizens of Japanese ancestry to promote that spirit of patriotic cooperation—that your motto is: 'Better Americans in a Greater America', and your purpose is 'to stand behind your country, the United States of America, throughout any and every emergency'.

"Such concerted activity in the present emergency confronting our Nation is noble and needed; and it is highly gratifying to me, as Director of the Selective Service System which is recruiting the young manhood of America for National Defense, to have this opportunity to commend and encourage it."

The continuing efforts of the Japanese American Citizens League to support the government in the present

struggle have received recurrent recognition from official sources. To cite one instance: On February 6, 1942, Mr. Wayne Coy, Special Assistant to the President, wrote to Mr. Masaoka:

> "The President has asked me to express his appreciation of the action of the Japanese American Citizens League in pledging support and assistance during the present emergency. Such assurances of cooperation are most gratifying to him."

When the War Department prevented Americans of Japanese ancestry from participating in the armed forces, either under Selective Service or by way of enlistment, the Japanese American Citizens League in a formal resolution adopted at a special emergency conference convened in Salt Lake City, November 17, 1942, expressed the belief that their welfare and their destiny "are inextricably bound up in the welfare and the destiny of these United States of America" and insisted upon the right "to contribute (their) share to the winning of the war" by offering their services and their lives. And it must be mentioned in passing that this declaration of faith was unanimously adopted when most of the delegates were from the government-sponsored Relocation Centers.

As a result of these efforts, the War Department and the Selective Service System finally made provisions for services in the armed forces.[3]

The decision of this Court in the instant cases will not only affect the liberties of the two American citizens of Japanese ancestry, whose rights are at issue before

3. The first to volunteer for service in the specially created Japanese American Combat Team was Mike Masaoka, Secretary of the J.A.C.L.
The reasons for his volunteering for service in the U. S. Army was stated by him in the Pacific Citizen, official publication of the J.A.C.L. of February 4, 1943 and are set forth in appendix (A) hereto annexed.

this bar, but it will also equally affect the freedom of 80,000 American citizens of Japanese descent, 20,000 of whom are members of this organization.

Perhaps, at this point, the position of the Japanese American Citizens League ought to be stated, particularly in view of the leadership which it assumed in this whole issue.

Even though the National Council, the representative policy-making assembly of the League with delegates from every chapter, unanimously agreed to cooperate in the evacuation process, it did not then, and does not now, concede the legality or constitutionality of this unprecedented action. This momentous decision was made because the military requested cooperation; this cooperation was made subject to the final decision of the Courts. And as loyal Americans, and true to their pledges to their government, the Japanese American Citizens League did cooperate in what Edward J. Ennis, Director of the Alien Enemy Control Unit, Department of Justice, before the luncheon meeting of the Annual Conference of the National Council of Naturalization and Citizenship at the Hotel Roosevelt in New York City, February 5, 1943, is reported to have said: "No other group of people in the history of the United States have ever been called upon to make a greater sacrifice for their country, and none responded more nobly".

Milton S. Eisenhower, then the director of War Relocation Authority, which was the civilian agency to aid the evacuees, and the present associate director of the Office of War Information, bore eloquent testimony to the part which the League played in aiding the government when he declared, before a Congressional Hearing on appropriations in Washington, D. C., June 15, 1942, in answering the question as to whether the Japanese had cooperated in the evacuation:

> "Remarkably cooperative. For example, the Japanese American citizens have an organization called the Japanese American Citizens League, and it has carried on a most vigorous educational program among the total population, urging 100 per cent cooperation.
>
> "In fact, I just cannot say things too favorable about the way they have cooperated under the most adverse circumstances".

That that cooperation was valuable to the government and demonstrated a far greater degree of genuine loyalty than any arbitrary test could ever show is undeniable. Now, that the military phase of that exclusion is completed and evacuation is a *fait accompli,* the members of the Japanese American Citizens League, recalling their lessons in the intrinsic value of American citizenship, await the decision of this Court with confidence in American justice.

But the concern of the Japanese American Citizens League is not alone for its members, nor even for the remaining 60,000 American citizens who along with the members of this organization have been deported from their homes and imprisoned in dentention camps, or relocation centers as they are termed, solely because of their race or ancestry. Its concern is for all the minority racial groups in this country who may be the next victims of similar discrimination resulting from war or other prejudices and hysterias, and for the preservation of civil rights for all, unless this Court calls an immediate halt to the arbitrary and discriminatory treatment meted out to the 80,000 American citizens of Japanese ancestry—the most defenseless and most misunderstood group of citizens in our land today.

ARGUMENT

THE MILITARY ORDERS AIMED ONLY AGAINST, AND AFFECTING ONLY, AMERICAN CITIZENS OF A PARTICULAR RACE OR ANCESTRY VIOLATE THE MINIMUM REQUIREMENTS OF EQUALITY INHERENT IN DUE PROCESS OF LAW.

While the Fifth Amendment, unlike the Fourteenth, contains no express "equal protection" guarantee, its "due process" clause assures a minimum quantum of equality of treatment, and constitutes a substantial and adequate protection from discrimination because of race, nationality or ancestry.

The relationship of due process and the equal protection of the laws is summarized in *Truax* v. *Corrigan*, 257 U. S. 312, 331. Said the court:

> "It (due process of law) of course tends to secure equality of law in the sense that it makes a required minimum of protection for everyone's right of life, liberty and property, which the Congress or the legislature may not withhold. Our whole system of law is predicated on the general fundamental principle of equality of application of the law, 'All men are equal before the law;' 'This is a government of laws, and not of men;' 'No man is above the law,' * * * are all maxims showing the spirit in which legislatures, executives, and courts are expected to make, execute, and apply laws."

In *Truax* v. *Corrigan*, the court says the following of *Yick Wo* v. *Hopkins*:

> "Mr. Justice Mathews, in *Yick Wo* v. *Hopkins*, 118 U. S. 356, 369, * * * speaking for the court of both the *due process* and *equality* clause of the 14th Amendment said:

> "'These provisions are universal in their application, to all persons within the territorial jurisdiction, *without regard to any difference of race,* of color, or of *nationality;* and the equal protection of the laws is a pledge of the protection of equal laws.'
>
> "The accuracy and comprehensive felicity of this description of the effect of the equality clause are shown by the frequency with which it has been quoted in the decisions of this court * * *."

Similarly, in *Yu Cong Eng* v. *Trinidad,* 271 U. S. 500, 528, in annulling a Philippine statute, apparently aimed at the Chinese, the court held it to be a denial of the equal protection of the laws; and accordingly a denial also of due process.

So, in *U. S.* v. *Yount,* 267 Fed. 861, 863 (E. D. Pa.), it was said:

> "It seems reasonably clear that the 'due process of law' provision of the Fifth Amendment is broad enough in its scope and purpose to include the 'equal protection of the laws' which no state may deny to any person under the provisions of the Fourteenth Amendment."

The court concluded:

> "But the Supreme Court has reminded us that 'No duty rests more imperatively upon the court than the enforcement of those constitutional provisions intended to secure that *equality of rights* which is the foundation of free government."

Compare also Justice Jackson in *Edwards* v. *California,* 314 U. S. 160, to the effect that race is a constitutional irrelevance. "The mere state of being without funds is a constitutional irrelevance—like race, creed, or color."

To the same effect is *Skinner* v. *Oklahoma*, 316 U. S. 535, Chief Justice Stone concurring:

> "A law which condemns without hearing, all the individuals of a class to so harsh a measure (sterilization) as the present because some or even many merit condemnation, is lacking in the first principles of due process."

While construing the equal protection clause of the Fourteenth Amendment, and not the due process clause of the Fifth, the latest discussion of the subject by this court through Chief Justice Stone in *Hill* v. *Texas*, 316 U. S. 400, 406, is noteworthy:

> "Equal protection of the law is something more than an abstract right. It is a command which the State must respect, the benefit of which every person may demand. Not the least merit of our constitutional system is that its safeguards extend to all—the least deserving as well as the most virtuous."

1. There is no proof that those of Japanese ancestry are a more dangerous group than any other.

Our foes in this war have made a fetish of intolerance and race thinking. If we are successfully to organize a moral opposition to them and to retain advantage over them in the eyes of the world, we must remain free from any trace of their odious concepts and excesses. It is particularly important, in view of the character of this war and of our declared war aims, that the rights of minority groups and especially of groups which may differ in some physical traits from the mass of our citizenry be scrupulously protected. Therefore, if it should appear that evacuation which has cost both the government and the group affected so dearly in treasure and dignity, was

precipitated by rumor and misinformation and not by solid fact and need, the policy must be condemned and reversed with all dispatch.

It is not enough, consequently, to hide behind such adjectives such as "inscrutable" and "unassimilable" or to seek to create the impression of "military necessity" for discrimination against a group by the repetition of the phrase. What has been done is so grave a departure from the American tradition, so fraught with peril to the present and future of this nation, so dangerously close to Nazi parallels, that to justify it in any measure, it must be established by abundant evidence of the most convincing kind that those of Japanese ancestry formed a group much more dangerous to the national safety than any other. And such evidence cannot be found.

It is appalling to realize that the group which alarmists would have us believe endangered the security of the United States, and whose existence was said to necessitate a drastic move without precedent in American history numbered—men, women, children, citizens and aliens—only 126,947.[4] How insignificant this number is can be judged by the fact that resident nationals of another country with which we are at war, Hungary, number 116,000, and if the children of Hungary are included the figure is considerably increased.[5] Yet the Hungarians are considered so small a group that they are generally ignored, and it would cause only amusement to suggest that their numbers constitute a menace or that they must be gathered up in a military dragnet.

The total group of persons of Japanese ancestry, then, constituted less than one-tenth of one per cent of the population of the United States in 1940. In view of our

4. 16th Census of the United States, 1940.
5. *New York Times*, July 19, 1942.

mingled indignation and mirth when Herr Hitler declared that a certain one per cent of the population of Germany was capable of betraying and "stabbing in the back" the other 99 per cent of the inhabitants of the Reich, the insincerity and grim humor of the synthetic "fear" of Japanese residents and citizens of Japanese ancestry is patent.

Compared to the number of Germans in the United States, the Japanese form a tiny group. In 1940, there were 1,237,772 persons residing in the United States who were born in Germany. The census figures do not reveal how many second generation Germans there are, but the census bureau reported on June 12, 1942, that there were 2,435,700 individuals, native born of foreign or mixed parentage, and 925,040 native born of native parentage, to whom German is the mother tongue. This gives some measure of the number of second-generation and third-generation Germans who have retained their identification with German language and culture.[6] In 1940, there were still 314,105 German nationals in this country, though Germans, unlike Japanese, are allowed to be naturalized.

There are living in the states of California, Washington and Oregon 71,727, 15,470, and 9,883 persons respectively who were born in Germany. In California, where it has been claimed that one Japanese saboteur could deliver the nation to its enemies, there reside 19,422 German enemy aliens. In the city of Los Angeles, where the number of Japanese was alleged to menace security, there were in 1940, 17,528 residents who had been born in Germany and exactly 8,726 Japanese nationals.

The Italian element of the country and of the West Coast even more impressively dwarfed the population of Japanese descent. In 1940, the number of residents in the

6. *New York Times*, June 13, 1942.

United States who were Italian-born totaled 1,623,579, of which 690,551 or 42.53 per cent were Italian nationals. Of these foreign-born persons of Italian origin 100,911 lived in California and of these 51,923 or 51.45 per cent were aliens. In other words, not only was the absolute number of those born in Italy great, but in addition the assimilation process, if it can be judged by the desire to naturalize, was considerably below the national average in this region. Moreover, the concentration of those of Italian background in strategic or military areas was surprisingly great. In 1935, a study was made of the Italians of San Francisco, for instance, which revealed that there were in that city 27,311 individuals born in Italy and 30,710 American born children of Italian parentage.[7] According to this same inquiry, in the four adjoining counties of San Mateo, Marin, Alameda, and Contra Costa, there were 21,045 foreign-born Italians and 24,388 native-born of foreign or mixed parents, a total, in the words of the author, of "103,454 individuals who are more or less directly in contact with Italian mores and habits of mind."[8] Moreover, there was a definite concentration of Italians in enterprises which Japanese are so bitterly condemned for entering. To quote again:

> "Virtually every unit of the independent fishing fleet operation off the coast of California is owned and manned by [Italian] foreign-borns. That assertion is on authority of Mr. B., a leader of the San Francisco fishing colony, and reputed to know as much of the operation and ownership of fish boats and equipment as any person about the wharves.
>
> "Mr. B. knows only two American-born owners now in the fleet; and these inherited their boats

7. Paul Radin, *The Italians of San Francisco*, SERA Project 2-F2-98, 1935.

8. *Ibid.*, p. 38

> from Italian-born sires * * * More than 1,000 independent fish boats ply California waters * * * Counting shore men, at least 5,000 persons are employed by the fishing fleet. A majority of these are Italians."[9]

Nor was this Italian colony free from the influence of Fascist propaganda, as this excerpt indicates:

> "Pete, a patriarch of Hunter's Point, a fishing village off San Francisco, says he would like to return to Italy to see Mussolini. Everyone wants to see Mussolini. He's a great man."[10]

Let us suppose that organized economic or political pressure groups had wished to make capital of the numbers and population distribution of Italians and Germans on the West Coast. They could have insinuated that so many aliens could not have come into the region for any good reason. They could have drawn maps and diagrams to prove that San Francisco bay was surrounded by enemy sympathizers and that the Los Angeles City Hall was practically in the hands of the Gestapo. They could have pointed to the flourishing Italian language schools and to the circumstance that most Italians are Catholic in a prevailingly Protestant country as proof of unassimilability. They could have inflated the evidences of subversive activity which attached to the German and Italian consulates. They could have doubtless excited the public mind to the point where a call for protective custody could have been elicited. And this turn of events, though it would have been unnecessary, wicked and unjust as subsequent events have proved, would have been far more reasonable and logical than the treatment meted out to

9. *Ibid.*, p. 59.
10. *Ibid.*, p. 64.

those of Japanese ancestry. This is stated advisedly and emphatically, for in terms of size of population, and age and sex distribution, there is scarcely any group in this country as impotent and useless to a potential enemy as the Japanese of alien or American nationality.

In the first place, not only is the group extremely small in comparison to the total national population, but a relatively small percentage of it is foreign born. In 1940, 79,642 or 62.7 of those of Japanese ancestry were native-born and therefore American citizens, while only 47,305 or 37.3 were Japanese-born and therefore aliens. It must be remembered, too, that none of these aliens are recent comers with immediate roots in the country of their origin. Total exclusion of Japanese has been practiced since the Immigration Law of 1924. Even before that it was sharply restricted. Consequently, most of these aliens have been law abiding residents of this country for from 20 to 40 years and are technically aliens simply and solely because the privilege of naturalization has been withheld from them.

The fact that exclusion has been in force for so long suggests another important consideration about the alien minority, namely, age. Those who came in the beginning are now old. A constant flow of immigration would have provided a young and a middle-aged group. Instead, because of exclusion, the population masses at the extremes of youth and age. The alien males are in average about 59 years old;[11] their wives are little younger. Since these immigrants tended to marry late in life, after they were established economically, their children, the citizens of Japanese ancestry, are only now growing to maturity. In 1940, 39 percent of the citizen population was under 15 years of age. Of the total of 126,000 persons of

11. House Report No. 2124 (Tolan Committee Report), May 1942, p. 95.

Japanese ancestry, approximately 55,000 were females.[12] To a shocking degree the evacuation was the removal and detention of women, of men well above the age of military effectiveness who had given of their youth and strength in honest toil, and of bewildered and tearful children torn from their schools and normal associations. The senseless panic over this helpless minority becomes still more shameful when it is realized that out of the limited number of men of military age in the group, 5,000 were already in the armed forces of the United States,[13] a higher percentage of whom were volunteers than any other nationality group in this country.

It is proper and important to stress the accurate figures relating to the Japanese and American-Japanese population on the west coast because those who advocated evacuation were apparently under peculiar misapprehensions regarding this subject. To cite one instance: Senator Hiram Johnson, Chairman of the West Coast Congressional Delegation which asked the President to make evacuation possible, declared in Congress on February 17, 1942:[14] "We are not in any position to look upon the situation with equanimity. We cannot do so on the west coast. In the first place, we have 130,000 Japanese, 30,000 of whom are citizens * * *." At that time there were approximately 112,000 persons of Japanese ancestry on the west coast, of *whom 73,000 were citizens.* Senator Johnson's error is one of the milder distortions during the debates at that time. If those who pressed for evacuation and who were largely responsible for the policy acted upon such inadequate knowledge, the necessity and

12. *Ibid.*, p. 94.
13. This figure is given by the President, in his letter to Secretary of War, Feb. 1, 1943, regarding the organization of a Japanese American combat team in the U. S. Army.
14. Congressional Record, Feb. 17, 1942, p. 1371.

wisdom of the move may be justly criticized and sharply questioned.

When the unflattering history of this unpleasant episode is written, one of the elements which will particularly interest the investigator is that from the point of view of numbers, there was never less reason for harsh or repressive measures against those of Japanese ancestry than in the year 1942. In 1930, there were 138,834 persons of Japanese ancestry in the United States.[15] In 1940, there were 126,947 such persons, a drop of 11,887 or 8.6 in the decade. In California, where traditionally anti-oriental organizations successfully created the impression that a handful of citizens of other extractions were at the mercy of hordes of resident Japanese, those of Japanese ancestry shrank in number from 97,456 in 1930 to 93,717 in 1940. During this same period the total population of the state rose from 5,677,251 to 6,907,387, and by the spring of 1942, due to the tremendous influx of war workers, the disproportion between the number of those of Japanese descent and the general population total became even still greater. To those who say that the Japanese were dangerously concentrated on the west coast, the answer is that a large percentage of a small number is nevertheless a still smaller number. The fact is that the number of German aliens in the State of New York alone is greater than the number of those of Japanese ancestry in the entire United States. If, in spite of this, it was not deemed necessary to deal with Germans as a group at a time Nazi submarines were sinking our ships off the Atlantic coast at an alarming rate, when installations in the Carribean were being shelled, when saboteurs were being landed from enemy craft on our shores, it is hypo-

15. These figures and those which follow are from the 16th Census of the United States, 1940.

critical and reprehensible to single out a smaller and less powerful group as the national scape-goat.

2. No problem of dual nationality exists.

It has been repeatedly charged that the American citizens of Japanese ancestry are dual citizens, and therefore owe allegiance to Japan. There has been a deliberate attempt to create the impression that Japan has encouraged dual citizenship for some sinister purpose, and that Japan has developed some unique theory of dual citizenship not shared by other nations of the world. Few arguments were more influential in creating sentiment and demand for evacuation. This was a theme hammered into the national consciousness by every proponent of evacuation. Congressman Thomas F. Ford (Cal.), for example, declared on the floor of the House:

> "• • • there is what we call dual citizenship. Every child of Japanese parentage, born in the United States, according to the law of the Imperial Japanese government, is still a citizen of Japan. He cannot break that citizenship unless he goes personally to the Japanese consul and gets from him permission to denounce that citizenship. • • • I do not suppose one-tenth of 1 percent of the Japanese in the United States have taken this step. They are therefore all dual citizens of the United States. They should not be treated as citizens of the United States. They should be required to move away from strategic areas where they cannot bring about another Pearl Harbor. • • •"[16]

It is not enough merely to say that there is not one correct fact in this declaration. It must be remembered, in addition, that the author of these absurdities was a

16. Congressional Record, February 18, 1942, p. 1158.

member of the West Coast Congressional Delegation. In compliance with the letter of February 13 of the West Coast Delegation, the Executive Order of February 19, 1942 was issued.

That dual nationality is no wicked invention of any one government but is the simple result of conflicting municipal laws has been carefully explained by many eminent students of nationality and constitutional law. One of these, an assistant solicitor in the Department of State, has written:

> "Pradier-Fodéré in his learned work on Public International Law discussed with particular care and at considerable length the difficult question of conflicts of nationality laws. * * * My excuse for adding to these dissertations is the fact that, though a third of a century has elapsed since Pradier-Fodéré's book was published, the problem of dual nationality remains unsolved, and very little progress, if any, has been made toward a solution. So long as in the laws of half of the countries of the world nationality continues to be based primarily upon place of birth (*jus soli*), while in the laws of the other half it is based primarily upon descent (*jus sanguinis*), the problem will continue to exist, to the confusion of the individuals concerned and the harassment of the foreign offices of the countries whose protection they seek or whose demands they attempt to evade, unless a solution is reached by international agreement. The problem is not made simpler by the fact that most of the countries whose laws of nationality are based upon *jus soli* have engrafted upon them, to a greater or less extent, the rule of *jus sanguinis*, while many of the countries holding to the latter rule have engrafted upon their laws, in one way or another, rules deduced from *jus soli*."[17]

17. Richard W. Flournoy, "Dual Nationality and Election." *30 Yale Law Journal*, No. 6, April 1921, p. 545.

Borchard, in an important study, has treated the same subject, and has shown how generally conditions of technical dual citizenship have arisen:

> "The same individual, as has been observed, is sometimes claimed as a citizen by two or more states, due to differences in their municipal legislation as to when citizenship begins and ends. The concurrent claims of the *jus soli* and the *jus sanguinis,* the absolute or conditional refusal of some states, *e.g.,* Russia and Turkey, to permit expatriation, followed nevertheless by the naturalization of their emigrating subjects by other states, or any new naturalization before the bond of allegiance to the original state has been severed, create cases of dual nationality which have given rise to serious conflicts. * * * By international agreements and municipal law, states have within the past forty years endeavored to remove these sources of conflict, or at least, by mutual concessions, to agree on the circumstances under which protection shall be accorded and permitted."[18]

In this same work we also find this clarifying passage:

> "By the municipal law of the United States all persons born in this country of alien parents are citizens of the United States. This government also recognizes, as well as adopts, on its own part, the rule that children born abroad of citizens are themselves citizens of the country to which the parents owe allegiance. There arises, therefore, by reason of the concurrent operation of the *jus soli* and the *jus sanguinis,* a conflict of citizenship, spoken of usually as dual allegiance. Inasmuch as each state may determine for itself the methods for acquiring and conserving its nationality, and as such states have adopted some form of the *jus soli* as well as

18. Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad,* 1927, p. 19.

> some form of the *jus sanguinis,* these conflicts of citizenship at birth are frequent, although they are somewhat tempered by the fact that most countries admit that the child endowed with dual nationality must, upon reaching majority, make an election of citizenship."[19]

This author discusses the disagreements between the United States and other countries over persons whose allegiance was claimed by both. He notes that Russia and Turkey have not recognized unpermitted naturalization of its nationals abroad and have punished former subjects, claimed by America, when they have visited the land of their birth.[20] He shows that other states (among them France, Switzerland, Italy, the Netherlands, Bulgaria, Greece and Persia), while they permit expatriation in some circumstances, "predicate the recognition of the American citizenship of one of their subjects upon the completed performance of certain obligations to his native state, usually the fulfillment of his military service, * * *."[21]

Strangely enough, in all this exposition of the conflict of laws and rival claims, Japan is not once mentioned by Borchard as an offender or source of difficulty.

The classical treatment of dual citizenship or double allegiance is by Moore,[22] who devotes over two hundred pages to an analysis of the problem. His general statement is as follows:

> "The doctrine of double allegiance, though often criticised as unphilosophical, is not an invention of jurists, but is the logical result of the concurrent operation of two different laws. In the absence of

19. *Ibid.*, pp. 575-76.
20. *Ibid.*, p. 546.
21. *Ibid.*, p. 546.
22. John Basset Moore, *A Digest of International Law*, Vol. 3, 1906, pp. 518-751.

> a general agreement for the exclusive application, according to circumstances, of the one or the other of such laws, the condition that actually exists is described by the term double allegiance. An undisputed example of it is furnished by the case of a child who, by reason of his parents' being at the time of his birth in a foreign land, is born a citizen of two countries—a citizen of the country of his birth *jure soli*, and a citizen of his parents' country *jure sanguinis.*"[23]

In none of these descriptions, it will be noted, is there any mention of the Mikado or of Japan. The disputes of the United States over dual citizenship seem to be most acute with European powers, and in a number of cases the situation has deteriorated rather than improved, as Moore points out in another volume:

> "Besides, the increasing pressure of the military system in Europe has made the non-treaty powers more and more reluctant to recognize the expatriation of any citizen or subject who has not performed the entire military service which the law prescribes. This tendency is clearly seen in the case of France, who, abandoning a less stringent rule formerly applied, now enforces her military laws upon Frenchmen naturalized abroad who were at the time of their naturalization subject to military service in the active army or in the reserve of that army. By the Italian civil code of 1866, citizenship of that country is lost by naturalization abroad, but it is expressly declared by the same code that this does not carry with it exemption from the obligation of military service or from the penalties inflicted on those who bear arms against their native country.

---

23. *Ibid.*, p. 518. For further details concerning the conflict of these two principles see John Basset Moore, "The Doctrine of Expatriation." Harpers, CX, 1905, pp. 234-236; Charles Cheney Hyde, *International Law, Chiefly as Interpreted and Applied by the United States*, 1922, pp. 658, 666-69; Ellery C. Stowell, International Law, 1931, pp. 190-91; Donald Young, *American Minority Peoples*, 1932, pp. 214-15.

> Other countries, including Switzerland, have laws of similar purport; but the Swiss laws contain a provision under which a native of that country may, if he sees fit to do so, renounce his natural allegiance. The most difficult case to deal with is that of Russia, by whose laws any native of that country who enters a foreign service without the permission of his government, or takes the oath of allegiance to a foreign power, is exposed to the loss of all civil rights and perpetual banishment from the empire, or, in case of his unauthorized return to Russia, to deportation to Siberia. In addition to this, he is required to perform his term of military service. Turkey, prior to 1869, recognized the right of expatriation, but has since refused to do so. * * *."[24]

In an effort to restrict the area of conflict over dual citizenship, this country has entered into separate naturalization conventions with 14 European and New World nations.[25] By these agreements each of the countries involved pledges that it will make no claim upon a former national who becomes a citizen of the other state. Yet there have been many states with which it has been impossible to conclude such an understanding.

A struggle over dual citizenship had been in progress between United States and nearly every nation of the globe long before Japan ever rose into political or military prominence. At first there was no possibility of dual citizenship claims involving Japanese, for until 1885 Japan forbade any immigration from her shores at all. When finally Japan permitted immigration to Hawaii, she stipulated that these immigrants should always remain citizens of their place of origin. In this Japan, in her process of

---

24. John Basset Moore, *American Diplomacy*, 1905, pp. 190-191.
25. William M. Malloy, *Treaties, Conventions, International Acts, Protocols* and *Agreements Between the United States of America and Other Powers*. Senate Document No. 348. 61st Congress, 2d Session, 1910; Senate Document No. 348, 67 Congress, 4th Session, 1923.

westernization, was following laws "similar to those of France and certain other countries."[26] Whatever friction has developed, therefore, is in no way connected with Japanese plots or Japanese ways, but results entirely from Japan's acceptance of Continental Nationality concepts. As one student of the subject has said:

> "The Japanese government, which has adopted many western practices, has been following the rule of *jus sanguinis*, the system used by most European governments, according to which she has claimed the citizenship of those born of Japanese parentage on foreign soil. (This system was followed by the United States up to 1907. Cf. 34 U. S. Statutes, 1929.) Because Japan has followed the European practice, certain problems have arisen in America where, under the Fourteenth Amendment, all persons born in the United States are citizens thereof."[27]

The first Law of Nationality of Japan was formally promulgated in 1899. It stipulated, in keeping with the *jus sanguinis* rule borrowed from Continental practice, that "A child is a Japanese if his or her father is a Japanese at the time of his or her birth." It is this provision that some have in mind when they repeat, "A Japanese is always a Japanese." They like to forget, however, that the Nationality Law of Japan has twice been revised since 1899. As a matter of fact, expatriation under the 1899 Nationality Law was not impossible, though it was difficult for a male unless he had completed active military service or had been exempted.[28] It is significant to remember that the request for the liberalization of the Japanese Nationality Code *came from Japa-*

---

26. Edward K. Strong, *The Second-Generation Japanese Problem*, 1934, p. 140.
27. William C. Smith, *Americans in Process: A Study of Our Citizens of Oriental Ancestry*, 1937, p. 133.
28. *Ibid.*, p. 134; see also Kiyo Sue Inui, *The Unsolved Problem of the Pacific*, 1927.

nese residents of the United States and *Americans of Japanese ancestry* who wished to divest themselves of Japanese citizenship. In 1914 and 1915, the joint conference of the Japanese Associations on the Pacific Coast "passed a resolution, recommending the revision of the nationality law of Japan so as to solve the question of dual citizenship. Acting upon this resolution, the Japanese Associations memorialized the legislature of Japan, urging immediate action on this matter."[29] In 1916, the law was altered to make it easier for American-born dual citizens of Japanese ancestry to expatriate. However, those who had petitioned the Japanese government were not satisfied, for this law permitted males to renounce Japanese citizenship only until they were 17 years of age. After that a man had to wait until he had completed military training or until he was past military age.[30]

Again pressure was brought upon the Japanese government by those of Japanese ancestry in the United States and its territories. Resolutions were once more passed by organizations on the Pacific Coast and on November 28, 1919, the American-born persons of Japanese ancestry forwarded this petition to the Japanese government:

> "We, the members of the American-Japanese Association of the Territory of Hawaii, comprising practically all those born of Japanese parentage within the confines of the United States, who are now living within the Territory of Hawaii, respectfully petition that the attention of the Japanese Parliament be called to the matter herein stated, so that remedial legislation can be had to protect us and to prevent our position as citizens of the United States from being misunderstood.
>
> "We are all men of Japanese parentage, born on the soil of the United States, and who have been

29. Kiyoshi K. Kawakami, *The Real Japanese Question*, 1921, p. 174.
30. Yamamoto Ichihashi, *Japanese in the United States*, p. 323.

educated in the schools of that country. We wish to be considered citizens of the country in which we are now living, and to show that men of Japanese ancestry can be as loyal to the country of their adoption as men of other ancestry residing therein.

"The present Japanese law as to declaration of citizenship works a great hardship for us. The question of dual citizenship and the criticisms which have been made against American-born Japanese have caused us to feel that some legislation should be passed by the country of our ancestors that will free us from any obligation to it, and allow those of us, who have located within the United States with the purpose and intention of remaining and interesting ourselves in the affairs of that country, to show that we can be good and loyal citizens of the country of our adoption. It is impossible to do this, while the country of our forefathers refuses to allow us to be recognized as American citizens through the restriction of its law and claims us as her own."[31]

Even before the answer came from Japan, Japanese nationals in the United States were taking matters into their own hands and were defying Japanese law, for these Japanese parents, being Asiatics and not eligible for naturalization, were responsible to Japanese law which required them to register their children at a Japanese consulate. Nevertheless a considerable portion of them failed to do so. To quote Buell: "Out of a total of 2,345 Japanese births in the State of Washington for the years 1915-1917, only 1770 were registered with the Japanese consulate."[32]

The Japanese and Americans of Japanese ancestry in the United States continued their pleas for a further

31. Kiyoshi Kawakami, *The Real Japanese Question*, 1921, pp. 186-87.
32. R. L. Buell, *American Journal of International Law*. Vol. 17, p. 34.

revision of the Japanese Nationality Law, and in 1924 their desire was realized when Imperial Ordinance No. 262 was issued on November 15 and went into effect December 1 of the same year. By this ordinance and the supplementary provisions attached to it the *jus sanguinis* principle of the former nationality law was waived in respect to children born of Japanese nationals in the United States of America and certain other Western Hemisphere countries in which the rule of *jus soli* dominates. The essential portion of the ordinance reads:

> "The Law of Nationality is hereby amended to read as follows:
>
> "A Japanese who by reason of birth in a foreign country to be designated by Imperial Ordinance shall have acquired the nationality of that foreign country shall lose Japanese nationality from the time of birth, unless he declares intention to retain Japanese nationality in accordance with the provisions of an ordinance to be enacted in relation thereto.
>
> "A Japanese who has retained Japanese nationality as provided for in the preceding paragraph, or who by reason of birth in a foreign country prior to the designation of such country as provided for in the preceding paragraph shall have acquired nationality of that foreign country, may relinquish Japanese nationality at will, provided that he retains the nationality of such foreign country and has a domicile therein.
>
> "A person relinquishing Japanese nationality under the preceding paragraph loses Japanese nationality."[33]

---

33. The full texts of all Japanese Nationality Laws, and of Ordinances pertaining thereto are found in Kiyo Sue Inui, *The Unsolved Problem of the Pacific*, 1927, pp. 300-320. For discussions of the 1924 amendment to the Japanese Law of Nationality see this volume and also E. G. Mears, *Resident Orientals on the American Pacific Coast*, pp. 107-11; W. C. Smith, *Americans in Process*, pp. 132-137; Tsunejiro Miyaoka, "The Japanese Law of Nationality and the Rights of Foreigners in Land Under the Laws of Japan," *International Conciliation*, January, 1925, p. 15; Yamamoto Ichihashi, *Japanese in the United States*, pp. 323-24; E. K. Strong, *Japanese in California*, pp. 45-47.

In a succeeding ordinance the details of the amendment were clarified:

"The following countries are hereby designated pursuant to the provisions of the first paragraph of Article XX-2 of the Law of Nationality:

1. United States of America
2. Argentina
3. Brazil
4. Canada
5. Chile
6. Peru

Supplementary Provision

The present Ordinance shall come into force December 1, 1924.

Regarding the Carrying into Effect of the Law of Nationality

"1. The notification of the retention of Japanese nationality may be made orally together with the notification of birth (the oral notification to be dealt with in accordance with the provisions of Article 57 of the Census Law.) In the case of the notification being made in writing, the intention to retain Japanese nationality may, for convenience sake, be mentioned in the notification of birth, along with the time and place of birth and other details.

"2. It is required that the retention of Japanese nationality shall be notified within 14 days after birth. In the case of this notification being made orally, it shall be regarded as having been made at the time when the person whose duty it is to make it shall have arrived at a diplomatic or Consular Office, and, in the case of a written notification, at the time when it shall have arrived at its destination. * * *"

"3. The retention of Japanese nationality should be notified together with the fact of birth. In case the retention of Japanese nationality alone is notified without being accompanied by the notifi-

cation of birth, the notification of the retention of Japanese nationality should be accepted, and at the same time a reminder should be given of the necessity of notifying the fact of birth.

"4. In case the notification of birth is not accompanied by that of the retention of Japanese nationality or in case the retention of Japanese nationality is notified after the lapse of the prescribed period of time mentioned above, the chiid does not acquire Japanese nationality and consequently the notification of birth should not be accepted."

The Japanese law has been cited at length because it is the fact with which the fancy and slander that has grown up on this subject is refuted. American-born persons of Japanese parentage are *not* born Japanese nationals; they are *not* automatically dual citizens. This has not been the case for nearly 20 years. To *obtain* Japanese citizenship for them, their legal representatives are required to take a *positive* step and register them at a Japanese consulate within 14 days of birth. Japanese consular officials are specifically instructed not to accept registration after the 14-day period and not to accept a notification of birth without an indication that the representatives of the child wish to retain Japanese citizenship for him. Former Ambassador to Tokyo, Joseph C. Grew, in Hearings before a Senate Subcommittee on Military Affairs, United States Senate, 78th Congress, First Session, on S. 444, January 28, 1943, page 116, verifies our views when he declared in part: "it would appear that a person of Japanese parentage born in the United States is regarded as a Japanese subject only if he has been declared a Japanese subject by his parents within 14 days of his birth". When questioned by Senator Mon S. Wallgren of Washington as follows: "Then there are a

great many people of Japanese ancestry in this country who are not in any way citizens of Japan?" Ambassador Grew replied: "Many thousands of them." And when Senator Wallgren made the further observation that: "And they are not permitted dual citizenship?" our former Ambassador to Japan stated: "They are not permitted dual citizenship, and I think they are perfectly loyal American citizens". It must be further observed, as pointed out in an opinion to the Director by Solicitor Phillip M. Glick of the War Relocation Authority, March 26, 1943: "the Japanese policy as evidenced in the legislation of 1924 has not been an aggressive adherence to the principles of descent, but, on the contrary, has represented an apparent attempt to conform to conditions in this country by requiring prompt action on the part of parents wishing to preserve the Japanese citizenship of the Nisei".

Moreover, those who were born before December 1, 1924, and who were therefore automatically dual citizens, are enabled to divest themselves of Japanese citizenship. And those born after December 1, 1924, who are registered by their parents, and who therefore become dual citizens, can likewise renounce their Japanese citizenship. In other words, Japan has made it more difficult for the American-born children of its nationals to acquire Japanese citizenship and easy for them to lose it. She has not sought to retain the allegiance of the foreign-born children of her nationals to the degree that every European power has, as anyone familiar with the history of the struggle between our State Department and England, Germany, France, Russia and many other nations over this matter will know. In this way, by the most liberal nationality provisions on record as far as this country is concerned, Japan indicated her realization that Japanese immigrants and their children in America have come to have their

interests and their allegiance here. By the 1924 law Japan acknowledged that she had nothing to expect or to hope for from these people; in effect she wrote them off her books. Every honest and unbiased student of the subject will agree with Strong who sums up these concessions in Japanese law by saying, "In this manner has Japan met the dual citizenship problem."[34]

That the Japanese amendment of 1924 was intended to reduce the area of conflict and to greatly diminish the number of dual citizens is plain. It remains now to discuss whether the Americans of Japanese ancestry have taken advantage of the Japanese law or whether as Representative Ford of California thinks, 99.9 percent are citizens of Japan as well as of the United States. A number of surveys of dual citizenship among Americans of Japanese ancestry have been made, and the results, in general, agree. The most careful analysis has been conducted by Professor Edward K. Strong and his associates during research into the problems of Americans of Japanese ancestry carried out under a grant made by the Carnegie Corporation to Stanford University. In brief, Dr. Strong found in 1930, six years after the passage of the Nationality amendment, that 40 per cent of those 7 years old and older who were living in California had American citizenship only. Since these were persons born before 1924, they could only have reached that status by definite renunciation of their Japanese citizenship. Of those who were from one to six years of age in 1930, Strong found that two-thirds were American citizens only, that is, their parents had not cared to register them at the Japanese consulate within the required two-week period.[35] When it is realized that in 1930 and before, most of these parents

34. E. K. Strong, *Japanese in California*, p. 46.
35. E. K. Strong, *Japanese in California*, 1933, pp. 46-47; E. K. Strong, *The Second-Generation Japanese Problem*, 1934, pp. 21-22; 142-43.

were themselves Japanese nationals, ineligible for naturalization in this country, and that by failure to register their children as Japanese citizens they were erecting a barrier of nationality between themselves and their offspring, the pro-American bias and lack of bitterness of these Japanese residents will be appreciated.

As the years have gone by the number of dual citizens has been even more sharply decreased. One reason is that the first generation immigrants, the aliens, are now past the child-bearing age and the children born lately are the offspring of the American-born. Most of these American-born parents could not register their children if they would, for as the figures above indicate, they themselves are not citizens of Japan. Thus the children of the second generation or American-born are practically never registered for Japanese citizenship. Also, there has been an increasing tendency on the part of those born before 1924 to relinquish Japanese citizenship.[36] The best estimate is that not more than 20 per cent of the Americans of Japanese ancestry are today dual citizens; in other words, the problem has been reduced 80 per cent in two decades, and bids fair to be wiped out entirely within a generation.

Even the cases of dual citizenship which remain would be reduced materially if the individuals concerned could have their way. One difficulty is that for those born before 1924 the Japanese law requires the presentation of a birth certificate before expatriation is permitted. Many

36. Since 1930, the Japanese American Citizens League, for example, has conducted an aggressive and highly successful campaign for all American-born Japanese, members and non-members alike, who were born prior to December 1, 1924, to take the necessary steps to divest themselves of their Japanese citizenship, a citizenship which was conferred upon them through no fault of their own but through accident of birth. And at late as November, 1941, when the House Committee on Immigration and Naturalization were considering a bill proposed by Secretary of War Stimson which would permit persons born in this country but also claimed by another to appear before some competent American body and repudiate or renounce their other citizenship, the League presented its views in support of the proposed legislation through a special representative.

of these people lived in rural environments where little attention had been paid to such formalities until recently. This was especially true in Hawaii. Consequently, during the last several years before the war, Americans of Japanese ancestry have been seeking some means of finding a formula acceptable to both nations which would make expatriation still more simple. For example, in January, 1940, the Hawaiian Japanese Civic Association sent a petition to Secretary of State Cordell Hull signed by many thousands of young Americans, asking for a simpler expatriation process. The Japanese American Citizens League concurred in this request.

In answer to this display of interest in undivided American allegiance and the pledge of loyalty which accompanied it, Lieut. Gen. Charles D. Herron, commanding the U. S. Army, Hawaiian Department, wrote to Dr. Sakamaki of the H.J.C.A.:

> "Please convey to the committee my congratulations on its fine accomplishment and say that I consider the very general signing of this petition highly significant and pleasing to all friends of your blood.
>
> "In the willingness of the younger Japanese to sign this petition and in their loyal and eager compliance with the draft, as in the attitude of the older generation in accepting the new order for their children, there is complete refutation of suspicions as to their loyalty * * *."[37]

Another reason for the small amount of dual citizenship that does still exist has reference to ultra-Americanism and not the reverse. A good many young people who have no interest in Japan, who cannot speak the language and who have no intention of traveling in Japan,

37. *Japanese-American Review*, January 25, 1941, p. 6.

see no reason to recognize or honor Japan's claim upon them by asking for expatriation. In this they are like hundreds of thousands of persons of German, French, Italian or other ancestry who ignore or are even unaware of the claims of a country into whose jurisdiction they do not intend to go.

There is considerable justification in international law for this position that the rule of residence and the wholehearted identification with one or another country is equivalent to choice of allegiance and citizenship where conflicting claims exist. On this subject Flournoy has said:

> "It does not follow that dual nationality should continue to exist when a person, after attainment of majority, has clearly shown by his action that he prefers one of the two countries to the other.
>
> "The subject of dual nationality was considered at the Hague Codification Conference in 1930. The Conference adopted a special protocol under which a person having dual nationality, who habitually resides in one of the states the nationality of which he possesses, and who is in fact most closely connected with that state, shall be exempt from military obligations in the other. This provision was taken from the draft nationality code of the Harvard Research in International Law (Article 11). While limited in scope, it is quite useful. A considerable number of states have adopted it, including the United States."[38]

Stowell, too, has given much weight to residence as a determinant of allegiance and claim:

> "The alternative form of the Basis of Discussion No. 4 proposed for the consideration of the Conference at the Hague emphasizes habitual resi-

38. R. W. Flournoy, "Revision of Nationality Laws of the United States," *American Journal of International Law*, Vol. 34, No. 1, January 1940, pp. 43-44

dence: 'A State may not afford diplomatic protection to one of its nationals against a state whose nationality such person also possesses, if he is habitually resident in the latter state.' This was also the criterion adopted in 1928 by the Fifth Conference on Private International Law at the Hague."[39]

Moore concedes that a technical double claim on a person may exist, but argues that his allegiance at any one time is undivided, saying:

"A conflict, however, is obviated by the rule - which is indeed but the practical formulation of the doctrine itself—that the liability of the child to the performance of the duties of allegiance is determined by the laws of that one of the two countries in which he actually is."[40]

Borchard takes an even more decided stand:

"The criterion most frequently applied has been domicile. In resolving the conflict of nationality, preference has been given to the citizenship of the country in which the claimant had established or maintained his or her domicile. This continuation of domicile may be considered a form of election of nationality.

"In case of conflict between the *jus soli*, where claimant has continued to reside, and the *jus sanguinis*, preference has almost uniformly been given to the former, following in this respect the diplomatic practice.

"Apart from the implied recognition of the right of election involved in the application of the test of domicile, international tribunals have expressly recognized that a person born with dual nationality has the right, upon arrival at majority,

39. Ellery C. Stowell, *International Law*, 1931, p. 187.
40. John Basset Moore, *A Digest of International Law*, Vol. 3, p. 518.

> of electing the nationality to which he desires to adhere."[41]

Americans of Japanese ancestry do not ordinarily reason in these legal terms, but many of them feel that they have indicated their preference and their allegiance by their residence and manner of life, and they resist acknowledging any claim of Japan, even by requesting expatriation. One example, which may stand for any number which could be given, is the testimony of an American of Japanese ancestry before a Congressional Committee:

> "Now then, speaking of the matter of dual citizenship: Unbeknown to most of us, our parents here throughout the Territory registered us through the Japanese consul. I have heard the question, time and time again, 'Why don't you take immediate steps to expatriate?' I, for one, have. When I enlisted in the National Guard 12 years ago I took steps and expatriated. It was necessary that I should. Many of my friends have not done so. They say, 'Why should we? If we take steps to expatriate, it will be admitting that we have in the past owed allegiance to Japan!' * * *".[42]

One other obstacle to the final and complete elimination of dual citizenship of Americans of Japanese ancestry exists. With the hardened cynicism of professional race baiters, certain individuals and groups at the same time cry for a Supreme Court Decision or a Constitutional Amendment to deprive the American-born of their American citizenship and at the same time assail them for not divesting themselves of Japanese citizenship. This tactic, designed to bewilder and discourage its victims, has been

41. E. M. Borchard, *Diplomatic Protection of Citizens Abroad*, pp. 589-90.
42. *Hearings before the Joint Committee on Hawaii. Congress of the United States.* 75th Congress, 2d Session, Oct. 6 to 22, 1937, p. 197.

practiced for many years. Twenty-two years ago a writer of Japanese ancestry exposed this cruel sophistry and plain persecution in an exchange with Valentine S. McClatchy, Secretary of the Joint Committee on Immigration, whose vocation was publishing but whose avocation was anti-Orientalism. Said this writer, Mr. Negoro:

> "The Sacramento editor is, then, reported as having complained of the smallness of the number of American born Japanese children taking out the renunciation papers, and imputes this to the nefarious designs of the Japanese Government to exercise authority over them. The charge misses the point. The reasons for it are twofold, to wit: First, because they are American citizens by the provisions of Art. XIV of the Constitution, their taking out of papers of renunciation would not add anything to their American citizenship; second, because of the precarious status in America produced by the constant agitation of Hon. H. Johnson, Hon. Phelan and their ilk in California and other parts of the United States against the Japanese and American born Japanese, they are always haunted by the fear of finding themselves men without a country; that is, of finding themselves denied the rights of American citizenship after they have given up their Japanese citizenship. If the Californian is so solicitous about the genuine Americanism of the American born Japanese, then I would suggest to him that he use his immense influence on the State Department at Washington and cause it to submit to the Japanese Government a proposal looking toward the solution of the difficulty."[43]

There is, therefore, no problem of dual citizenship among Americans of Japanese ancestry. Instead there is a myth about dual citizenship that was utilized by the

43. M. J. D. Negoro, "A Defense Against an Unmerited Attack," *The Japan Review*, Vol. V., No. 14, Dec. 1921, pp. 254-55.

vulgar and ignorant to force evacuation. The very fact that this was one of the prime motives discredits evacuation when the truth is known. The truth is that no people of foreign origin have exercised themselves as greatly to terminate dual citizenship than have the Japanese in America and their children. The law of no country is more liberal on this score than is that of Japan. And no people, it should be said finally, have moved bravely and loyally toward undivided American citizenship against more mean-spirited and carping opposition.

3. Japanese language schools were neither unique nor subversive.

In an effort to create the impression that those of Japanese ancestry were a particularly dangerous group, the existence of supplementary schools for the teaching of the Japanese language has been much discussed. This argument has great appeal for the semi-literate. The instigators of evacuation policy used the Japanese language school theme repeatedly, as a glance through the pages of the record of the hearings before the Tolan Committee proves.[44] Of course these witnesses offered no evidence; they simply repeated gossip and assumed what is to be proved, that the schools did not hold to their task of teaching the language, but inculcated subversive doctrine instead.

As far as the Japanese language school is concerned, there is no need to speculate upon its functions and the manner in which they were performed. Because of organized anti-Orientalism on the West Coast everything that the Japanese have undertaken has been subject to close scrutiny. Their language schools are no exception, a number of studies made of them will indicate.

---

44. For testimony bearing on this point see pp. 11071, 11086, 11091, 11355, 11393, 11539, 11561 and 11772 of the Tolan Committee hearings.

The accusation that the Japanese language schools are instruments of the Japanese nation to perpetuate Japanese nationalism on American soil is disproved by their known history. Colket correctly points out:

> "The first foreign-language school was established in 1896 [in Hawaii] by a Japanese Christian minister brought to the islands by the Hawaiian Mission Board, and the object of the school seems to have been as much to convert the Japanese children to Christianity as to teach the Japanese language."[45]

A standard history of Hawaii makes the same point:

> "The foreign language schools in Hawaii originated in much the same way as foreign-language schools in other parts of the United States, and for much the same reasons. The earliest schools of this kind (other than English schools) were Chinese, German, and Portuguese. The first Japanese-language school was organized in 1896 by a Christian Japanese who was engaged in religious work among his own people. All of the early Japanese schools were begun under Christian auspices; * * *"[46]

The West Coast language schools had no baser inception than those of Hawaii. In the words of one investigator who has made extensive studies of the Orientals of the West Coast:

> "The first Japanese language school in Los Angeles was organized for the express purpose of helping the children of the immigrant Japanese become good citizens. Japanese had observed the disorganization of children in other immigrant groups and advocated the language school as an

45. Hamilton G. Colket, "Suppressing Japanese Schools in Hawaii," *The Nation*, Nov. 22, 1922.

46. Ralph Kuykendall and Herbert E. Gregory, *A History of Hawaii*, 1933, p. 327.

> instrumentality to aid the two generations in understanding each other, thereby reducing culture conflicts and resultant misconduct. * * * The Japanese have been remarkably successful in controlling the conduct of their children, and the language school, without doubt, has been a factor of no small importance."[47]

In another book the same author writes:

> "The Chinese and Japanese language schools have performed, and for a time will continue to perform, a most useful service in bringing the two generations closer together. When all factors are considered, it is remarkable that there has not been more disorganization and demoralization of the youth. Much credit is due to the language schools for their stabilizing influence in this period of transition. As the immigrant group gradually passes from the scene, there will be less and less need for these schools and they will disappear without suppressive legislative enactments."[48]

The necessary function and social significance of the language schools in promoting the essential bond and understanding between non-English speaking immigrant parents and their children has been emphasized by every competent student of the subject.

Economic requirements, too, have played a large part in the establishment of these schools. Svensrud, who made a careful survey of these institutions, reported:

> "From the social and economic standpoint a knowledge of the language is indispensable now, as a tie between the first generation and the second. Employment at the present time, even in most cases for the college graduates of the second generation, rests with the first generation.

47. W. C. Smith, *Americans in the Making*, p. 302.
48. W. C. Smith, *Americans in Process*, p. 184.

> This situation will undoubtedly change within another generation as evidenced by the alacrity of Japanese boys and girls in learning the American language and customs. But the language schools at present are filling a need, and should be looked on with favor. They are serving the same purpose as once did the German and Scandinavian language schools, which have died out during the last few generations. * * *
>
> "The older generation still controls Japanese business interests, and in order to procure employment from them, it is necessary to know their language."[49]

Strong likewise emphasizes the economic motives:

> "What are the prospects that second-generation Japanese may be employed by Japanese business concerns? One prominent Japanese informs us that Japanese American commercial firms will employ these second-generation children, both here and abroad, provided they know Japanese, as well as English, sufficiently to carry on their work. However, there are not enough of these firms to take care of many second-generation children. It is very necessary, for the reason given above, that second-generation children learn Japanese quite well, but it is very difficult to get them to do so, for several reasons."[50]

The continued economic usefulness of the language schools was related, of course, to the organized campaign of prejudice which made it difficult for a young person of Japanese ancestry to obtain employment in other than Japanese surroundings. With the circular reasoning of malice, the race-baiters succeeded in fortifying an institu-

49. Marian Svensrud, "Attitudes of the Japanese Toward Their Language Schools," *Sociology and Social Research*, Vol. 17, Jan.-Feb. 1933, pp. 259-64.
50. E. K. Strong, *The Second-Generation Japanese Problem*, p. 6.

tion which they hypocritically pretended to deplore. Palmer has made this clear:

> "It is interesting to note, however, that, while ordinarily these schools would tend to be unpopular with children and gradually to disappear, their continued life and vitality are largely due to that uncertainty of status produced by racial discrimination and the denial of economic opportunity to the young American born Japanese. These young people discover that they are most likely to find employment in situations where their knowledge of Japanese is an asset."[51]

Mears, too, has commented on this point:

> "The acquisition of a foreign language in a foreign language school usually connotes to the American a disloyalty to the adopted land. It is a striking commentary on the local situation that the anti-alien legislation since the World War is causing American-born to consider far more seriously the wisdom of learning the tongue of their parents. For as children they speak English; they see no need of another language during the secondary school or high school, but thereafter they suffer an occupational handicap in having the more American point of view and the more Asiatic physical features."[52]

In addition to the social and economic functions already described, certain other reasons have been found for the maintenance of these schools. In some places, when both parents have been employed, they have served as day nurseries. Elsewhere, through the employment of an American teacher, they have striven to give pre-school training in English so that children will not enter the public schools with a serious language handicap.[53]

51. Albert W. Palmer, *Orientals in American Life*, p. 54.
52. E. G. Mears, *Resident Orientals on the Pacific Coast*, p. 358.
53. Reginald Bell, *Public School Education of Second-Generation Japanese*, p. 21.

But the important question is whether, in spite of other functions, the language schools acted as a focal point for Japanese propaganda? All trained investigators who have given attention to this allegation uniformly deny it. Time and material elements alone would prevent this. The legend is that all children of Japanese ancestry attend these schools for sufficient time periods to become inculcated with the ideals of Imperial Japan. Actually Strong found in 1930 that "about 69 per cent of both sexes of the United States-born Japanese have attended Japanese-language schools for an average of 3.0 years for the entire group."[54] Moreover, this authority does not give much reason to believe that a great deal of time could be salvaged for dubious practices from the hour of daily study:

> "In the first place, Japanese is a very hard language to learn, especially to write. In the second place, Japanese-language school work is given after the American day-school work is done, in the late afternoon or on Saturday. Third, young Japanese do not see the need of learning Japanese until they are eighteen or nineteen years old, and by then it is rather late. Fourth, there are not enough of such schools; in some areas none are to be found, and, since they are pay schools, not all Japanese can afford to attend them."[55]

Strong also mentions that white students were not banned from these schools (he personally knew of three boys who had attended), which would hardly be the case if they were designed for subversive purposes.[56]

Palmer calls attention to the supplementary and innocuous character of the schools, saying: "Similar schools have been conducted by the Chinese; and also by the

54. E. K. Strong, *The Second-Generation Japanese Problem*, p. 201.
55. *Ibid.*, p. 6.
56. *Ibid.*, p. 206.

Germans and many other nationalities in the form of parochial schools. The Japanese schools were merely supplementary to the public schools and not a substitute for them as are parochial schools."[57] Millis, who conducted a thorough study, states categorically: "these schools are not intended to perpetuate the traditions and moral concepts of Japan. They are supplementary schools, and at the worst there is much less in them to be adversely criticized than in the parochial schools attended by so many children of South and East European immigrants."[58]

Svensrud, in the paper already cited, likewise disputes the familiar charge:

> "The strongest objection which has been raised in this country towards the language schools of the Japanese has been that they foster anti-American ideas. This accusation is without basis. A thorough study has been made of all textbooks to eradicate such possibilities. The Japanese Association of the Pacific Coast has been cooperative in its desire to eliminate or revise any material which would be considered incompatible with American traditions and customs."

Perhaps the most detailed analysis of this point has been made by Bell and his findings are unmistakable and clear:

> "The Japanese American organizations that have been interested in developing the schools have not been unaware of the social and educational responsibility that is theirs. As early as 1913, the Japanese Educational Association of America, closely affiliated with the Japanese Association of America, gave its attention to the part it was to

57. Albert W. Palmer, *Orientals in American Life*, p. 51.
58. H. A. Mills, *The Japanese Problem in the United States*, p. 265.

play, not in Japanizing the American-born Japanese child, but in fitting him for the American scheme of things. In that year, it adopted the following resolution:

'The goal to be attained in our education is to bring up children who will live and die in America, and as such, the whole educational system must be founded upon the spirit of the public instruction of America.' "[59]

Bell traces the honest and patriotic attempts to compile satisfactory textbooks:

"As early as 1912, when the first meeting of the Japanese Educational Association of America was called in San Francisco, this was one of the problems discussed. Subsequently, in the 1915 meeting, a committee on editing adequate textbooks was selected, since only books published in Japan could be obtained. Because these were Japan-centered, they were inadequate, for the children in the United States think in terms of American life, not in terms of Japanese customs and illustrations. • • •

"Meeting in Seattle in July 1918, the general conference of the Pacific Coast section of the Japanese Association of America resolved (1) to establish an educational research bureau and (2) to publish textbooks for the Coast schools. With the hope of allaying anti-Japanese sentiment the conference passed the following resolution:

" 'a) That the goal to be attained in our education of the Japanese children shall be to make it supplementary to the American public instruction, and the curriculum shall consist wholly of the Japanese language.

" 'b) That every child who comes to a Japanese school and who is not attending the public school shall be directed to attend the public school.

59. Reginald Bell, *Public School Education of Second-Generation Japanese*, p. 20.

> "'c) That the interpretation of anything in the adopted textbooks which may be contrary to the spirit of Americanism should be carefully corrected.
>
> "'d) That we should endeavor to publish proper textbooks which correspond to the spirit of Americanism. This proposition shall be presented to the general conference of the Japanese Association of America.
>
> "'e) That there shall be selected a committee on Americanization.'"[60]

In his conclusion Professor Bell says:

> "In the course of the discussion it is pointed out that the language school curriculum in reading, writing, and speaking Japanese has had genuine social utility in helping to retain group solidarity and moral control, so that the Japanese Americans have had an exceptionally fine conduct-record among the second-generation immigrant groups."[61]

The evidence which has been cited is from trained and dispassionate investigators and not from professional patrioteers and hate-mongers. It was gathered before the outbreak of the great conflict and therefore before passion had warped judgments. The difference between what it tells about the Japanese language schools and what it is fashionable to relate in some quarters is the measure of the degree to which hysteria can gain ground and a sense of proportion can be lost unless the courts, by vigorously protecting constitutional guarantees, recalls this nation to nobler tasks than the persecution of minority groups.

Finally, in regard to the language schools, it must be noted that they were not very effective in teaching their

60. *Ibid.*, pp. 23-24.

61. *Ibid.*, p. 106; For additional information on the Japanese language schools see Yamato Ichihashi, *The Japanese in the United States;* R. D. McKenzie, *Oriental Exclusion;* E. B. Reuter (ed.), *Race and Culture Contacts;* Marjorie R. Stearns, *The History of the Japanese People in Oregon.*

students the rudiments, let alone the mastery, of the Japanese tongue. Witness after witness before the Tolan Committee testified to the effect that most American-born Japanese, even though they had attended the language schools in their youth, could not even read or write the simplest sentences and very few of them could carry on an ordinary conversation entirely in Japanese. The difficulties experienced by the army and the navy in attempting to recruit members for their military intelligence services, and the Office of War Information in finding capable monitors and translators for their over-seas division, verify our contention that the importance of language schools has been greatly exaggerated.

4. Alleged Shintoism is no valid ground for the discriminatory orders.

A reprehensible attempt has been made to create the impression that all persons of Japanese ancestry in this country are Shintoists or Buddhists and therefore inimical to a Christian civilization. Shintoism is represented by these amateur theologians as an extension of Japanese nationalism.

All this is nothing more than a revival of Know-Nothingism, with a new slogan and a new victim. This time it is the Japanese instead of the Catholic who cannot be a good American citizen because of his religion, and it is the Mikado instead of the Pope at Rome who lures the erring from the path of loyalty.

Because of the emotionalism stirred by war, few recognize the danger of this attempt to make religious affiliation a test of loyalty. Shintoism in Japan is a mixture of aboriginal nature worship and more recent ancestor worship. It has become highly formalized and is recognized in Japan as the state religion. Since in the Japanese

mythology the nation is supposed to have sprung from the Kingly line, the remote ancestors or the concept of ancestor is honored in the person of the Emperor. Obviously, this is a cult particularly adapted to a Japanese locale. Though it was brought to this country it could hold only an insignificant number of followers here. And, in its transmission to America, as is so often the case in religious transfers, it was markedly altered. The interest in and reverence for the Emperor disappeared, though the interest in the past and in the great men of the past was maintained. The pictures of George Washington and Abraham Lincoln were hung in the Shinto temple in Los Angeles and the sermons emphasized their contributions and the heritage from men like them who had achieved greatly in the past. And, as for the principles of Buddhism, a naval intelligence officer, writing in the *Harpers Magazine*, October, 1942, declared: "* * * the tenets of the faith are perfectly acceptable and cannot be classified as un-American".

Most of the American-born persons of Japanese ancestry are Christians, and since the American-born now comprise more than two-thirds of the entire group, it can be said that the whole community is prevailingly Christian. Even in 1930 this was already the case, according to the statistics compiled by Strong:

> "The first generation prefer Buddhism to Christianity (77 per cent and 18 per cent respectively). The reverse is the case with the United States born, among whom 39 per cent prefer Buddhism, while 47 per cent of the males and 56 per cent of the females prefer Christianity.
>
> "There is no evidence that the first generation tend to transfer their allegiance to Christianity as they continue to live in California. Their children

clearly do so, as do the young Japan-born who are growing up in the State."[62]

It is strange that this passion "to protect Christian civilization" from Shintoists and persons of Japanese ancestry is never expressed by the legitimate spokesmen for Christianity in this country. From the beginning of the evacuation drive, religious bodies have been critical of the policy. This was so clearly evident in the testimony before the Tolan Committee that the final report of that group included these sentences:

> "Every spokesman for religious organizations who testified on the west coast advocated individual treatment of the Japanese. A panel of church leaders presented this viewpoint in San Francisco."[63]

The Christian press and periodicals have remained unconvinced of the necessity of the move also. When the final Tolan report was released, the *Christian Century* commented sternly in an editorial:

> "If there is any passion for justice and fair play in this country, the publication of the Tolan report on the treatment of American citizens of Japanese descent should produce a national demand for an immediate reconsideration of the policy so far pursued."[64]

Most of the major religious bodies have registered their protest against discriminatory evacuation in one way or another. The National Study Conference of the Federal Council of Churches of Christ in America, meeting at Delaware, Ohio, March 3-5, 1942, issued a report which contains these words: "We would now commit ourselves

62. E. K. Strong, *The Second-Generation Japanese Problem*, p. 224.
63. House Report No. 2124, 77th Congress, 2d Session, May, 1942, p. 148.
64. *Christian Century*, June 10, 1942.

to the task of protecting the rights of American-born citizens of Oriental parentage, who are likely to suffer evil consequences unnecessarily because of racial prejudice and discrimination in our attitude towards Asiatics."[65] On April 20, the Friends met at Richmond, Indiana, and issued a message declaring:

> "The conference is deeply concerned over the dangerous violations of American freedoms involved in the forced migrations from the west coast of the United States and Canada, and would lay upon our members the concern to do all in their power to atone for the wrong done and to assist the victims in every way possible in their readjustment to normal life. We would also urge our members to endeavor to overcome the prejudice, fear and hatred which underlie this tragic situation."[66]

In late June, 1942, during the annual conference of the California Methodist Church at Stockton, California, a resolution was passed which strongly condemned evacuation.

The Congregational Christian Churches have indicated their stand by issuing a pamphlet entitled: *A Touchstone of Democracy: The Japanese in America*. This is a series of articles assailing evacuation and its unsatisfying rationalizations. On July 28, 1942, the Synod of California of the Presbyterian Church took its turn, and through its Committee on Social Education and Action issued a resolution which contained, among others, these points:

> 1. The evacuation policy has involved racial discrimination, in that it was aimed at the Japanese alone, the majority of whom are American citizens.
>
> 2. The policy actually resulted in the practical suspension of the constitutional rights of a mi-

65. *Christian Century*, March 25, 1942, p. 397.
66. *Christian Century*, May 6, 1942, p. 612.

nority of American citizens without due process of law or providing hearings whereby they might prove their loyalty.

7. The evacuation policy has already become a valuable propaganda weapon in the hands of the enemies of democracy, especially in the Far East.

8. A precedent has been set for anti-democratic forces at home whereby they may be able to liquidate other "undesirable minorities."

In the resolution, confidence is expressed in the loyalty of those of Japanese ancestry, and it is urged that hearing boards be employed where "American citizens, at least, can have an opportunity to prove their loyalty."

It is good to know that organized Christianity in this country has not yielded one inch to bigots who would make this a religious war as well as a race war.

5. Possibility of civil disorder exaggerated; vigilantism is no Constitutionally adequate ground for suppression of civil rights, or for racial discrimination; "protective custody" unwarranted.

One of the shabbiest and most unsubstantial arguments advanced in favor of evacuation is the one that sanctimoniously explains that it was undertaken to "protect" the Japanese themselves. This argument and this procedure has some uncomfortable parallels. On a certain black day in 1938 the Jews of Germany, after an officially inspired newspaper and radio campaign of hate against them had culminated in a pogrom, were accorded "protective custody" by the Nazi regime. When the victims of this solicitude managed to writhe out of the grasp of their "guardians," they, too, were dispossessed and homeless. The similarity has not been overlooked and

will increasingly be recognized with the passage of time. Of it Chamberlin has written:

> "The principal reasons advanced for this action are that acts of sabotage and espionage might be committed and that the Japanese themselves would be in grave danger of mob violence and lynch law if new developments in the war should raise racial tension to the bursting point. Giving full weight to these considerations, and recognizing that the Army authorities carried out the evacuation as humanely and efficiently as possible, this 'liquidation' en masse of a racial minority of our citizens sets some uncomfortable precedents. • • •
>
> "The measure was definitely what one would expect in a totalitarian, not in a democratic state, because it has made no attempt at selective discrimination. It is not a reprisal for proved disloyalty; it could be regarded either as preventive punishment or as 'protective custody.'
>
> "There is almost nothing that could not be done under the principle of preventive punishment. And no group that might in the future be unpopular in some locality for reasons of race, color, or religion could feel safe if the consequence of a threat of mob violence should be not the maintenance of law and order, but the uprooting and deportation of the threatened group."[67]

Were these of Japanese ancestry in this country in any danger of mob violence? The answer is "no". There was not even any general hostile feeling against them for a considerable time after Pearl Harbor, and what feeling was finally aroused was artificially stimulated. The Tolan Committee Report of March 19, 1942 makes this clear when it states:

---

67. William Henry Chamberlin, "Why Civil Liberties Now?" *Harpers Magazine*, Oct. 1942, pp. 530-31.

> "* * * the formal declarations of a state of war with the Axis Powers created a class of persons knowns as enemy aliens. For at least a month thereafter, however, the temper of the American people remained relatively calm toward these groups in their midst.
>
> "Meanwhile the Federal Bureau of Investigation was active in rounding up those enemy aliens (Germans, Italian, and Japanese) considered most immediately dangerous. These raids were made with the aid of information supplied by the military and naval intelligence services, and often with the collaboration of local police officials. Editorial comment praised these preventive measures, and there appeared no widespread demand for wholesale evacuation."[68]

What, then, caused a change in sentiment and gave the west coast anti-Oriental forces that opportunity which they had unsuccessfully sought for over 40 years? In a footnote the Committee gives the answer:

> "One of the factors making for public antagonism toward persons of Japanese origin in the continental United States was the widespread reports in magazines and newspapers of instances of sabotage for which Japanese residents of Hawaii were allegedly responsible on December 7."[69]

We know now that these rumors of sabotage were entirely, and without exception, false. Protective custody or evacuation was no more necessary than falsehood was necessary. A nation that can censor information about the movement of a ship or a troop train, but which will not exert itself to refute the vilification of an entire minority group within its jurisdiction must accept some

68. *House Report No. 1911*, 77th Congress, 2d Session, March 19, 1942, pp. 1-2.
69. *Ibid.*, p. 2.

responsibility for the consequences to its own dignity and to the unfortunate people involved.

At the beginning of the war the sentiment was markedly against any discriminatory treatment of American-Japanese. On December 8, in the House of Representatives, Congressman Coffee of Washington declared:

> "It is my fervent hope and prayer that residents of the United States of Japanese extraction will not be made the victim of pogroms directed by self-proclaimed patriots and by hysterical self-anointed heroes. It would be a shame and a travesty on democracy if blatant and excited vigilantes should raid the homes of Japanese-Americans, without first according the prospective victim due process of law. As one who has lived as a neighbor, to Japanese-Americans, I have found these people, on the whole, to be law-abiding, industrious, and unobstrusive. Let us not make a mockery of our Bill of Rights by mistreating these folks. Let us rather regard them with understanding, remembering they are the victims of a Japanese war machine, with the making of the international policies of which they had nothing to do."[70]

In December Richard L. Neuberger reported from the coast:

> "* * * no demonstrations against Japanese residents have occurred. Governor Culbert L. Olson of California asked for tolerance in the state with the largest Japanese population. John Boettiger, the President's son-in-law, wrote in the Seattle *Post-Intelligencer*: 'Many of the Japanese in America are as loyal as any white Americans, and it would serve only evil purposes to cause them to suffer * * *.'"[71]

---

70. *Congressional Record*, December 12, Appendix.
71. R. L. Neuberger, "Reveille in the Northwest," *The Nation*, Dec. 20, 1941, p. 638.

In January, Chester H. Rowell was able to write:

> "I am glad to report that, so far, there has been no evidence of any such feeling [anti-Japanese]. For their part, Japanese loyal to the United States are organizing excellently and vigorously. Old-line Americans, under the highest quality of responsible leadership, are doing the same thing. The actually disloyal we leave to the FBI and the military police, to be dealt with as individuals, like any other disloyal individuals. On this basis, if we all keep our heads, there may be little for either of these agencies to do, but they are ready. It is our ambition not to follow, toward our fellow Californians of Japanese race, the bad example set by some Japanese militarists at Tientsin and elsewhere in China, toward legal residents there of European and American race. We who know our California Japanese as individuals know what fine people many of them are * * *."[72]

In those early days of the war, there came from all directions those evidences of democratic faith which we have so recklessly bartered away for cheap, totalitarian emotionalism. In a lead editorial, printed December 16, the *Portland Oregonian* delivered this message:

> "The Oregonian has been repeatedly assured that these young Americans of Nipponese blood are soundly American * * *. We have no reason for doubt. Intolerance is a prime factor of the beast with which we are now at grips. It should be our privilege as it is our duty to demonstrate to these young Americans in truth, as in theory, the democracy of which they were taught in our public schools. Here for our part is an opportunity to demonstrate that democracy really works—the rest is up to them."

72. Chester H. Rowell, "Clash of Two Worlds," *Survey Graphic*, Jan. 1942, p. 13.

As late as March 7, Louis Fischer reported from the west coast:

> "In Seattle, I saw a girls' school going on an excursion, and smiling Japanese children were walking hand-in-hand and arm-in-arm with American children. Teachers and superintendents in liberal Pasadena and Seattle told me that the Japanese students were often brilliant and always loyal. Numerous housewives told me they trust their Japanese servants. The public is not showing hate or spite. But the reactionary press and the politicians are out for blood and wholesale internment. Jingoes are endeavoring, under the cover of war-time flag-waving patriotism, to do what they always wanted to do in peace time: get rid of the Japanese, * * *"[73]

In early June, Charles Iglehart investigated the claim that "protective custody" had been necessary, and returned a negative verdict:

> "* * * the West Coast Congressional delegation petitioned the President to empower the army authorities to handle the entire situation and to deal summarily with 'aliens and subversive persons.' This action has since been defended on the ground that the Japanese themselves were in danger. I talked with a good many people of all sorts and found no evidence of any serious danger. Nor could I discover a single case of subversive activity, although the air was filled with unsubstantiated rumors * * *. I cannot escape the conclusion that even as a war measure evacuation was unnecessary. The slumbering embers of public antagonism to the alien group were, it appears, deliberatedly fanned by interested persons and organizations until a conflagration was threatened, but

73. Louis Fischer, "West Coast Perspective," *The Nation*, March 7, 1942, p. 276.

at any time it could have been quenched if the authorities had shown proper firmness.'[74]

An extension of this "protective custody" argument is that it was necessary to clear the coast area of Japanese and American-Japanese so that in case of invasion they would not be mistaken for the enemy Japanese and attacked. The insincerity of this transparent after-thought is glaring. If those who advance it were honest, they would be quite as concerned about the thousands of Koreans, Chinese and Filipinos of the coast who are just as likely to suffer harm as a result of mistaken identity. Do the sponsors of this novel idea advocate that we clear the east coast of Caucasians if invasion should threaten from Germany? Do they imply that England should have emptied the isle of all civilians when the Nazis were chanting, "We Sail for England"? Do they not know that Japan has invaded China, and though the two are oriental countries, China's difficulty has been, not in finding or in identifying the foe, but in obtaining from her allies the arms with which to repel the onslaught?

The apologists for protective custody go one step more. Having assumed incidents in which many Japanese residents and their children would be done to death by American mobs, they point to the manner in which the Japanese could make use of such incidents for propaganda purposes. In view of the boon which the evacuation has proved to be for the Japanese propaganda mill, this concern for America's good name among the nations of the east seems a bit artificial.

There is another circumstance which impugns the good faith of many who urged evacuation on the grounds that

74 Charles Iglehart, "Citizens Behind Barbed Wire," *The Nation*, June 6, 1942, p. 649.

protective custody was essential for the protection of the "endangered" people. If this were their honest conclusion, their interest in the matter would end there. But this has not been the case. These same individuals and groups who were so intrigued by "protective custody", the American Legion, the Native Sons and Daughters of the Golden West, the California Joint Committee on Immigration and various congressmen and state and city officials, have by no means allowed evacuation to terminate their "friendly" interest in those of Japanese ancestry. In fact, this has been only the beginning of their "struggle", to borrow a phrase from the title of a book which fits their pattern of mind precisely. No measure of further persecution has been too egregious or too petty for them to attempt. They are even now sponsoring laws, decisions, amendments or resolutions that aim to divest the American-born of Japanese descent of citizenship, that would authorize the deportation of all of Japanese ancestry, that would cancel civil service positions, that would prevent a return to California for those who lived there, that would permit the confiscation of farm machinery, that would make farming or fishing hereafter impossible for members of the group, that would abolish the present relocation centers and turn them into the most repressive type of concentration camps, that would prevent Americans of Japanese ancestry from serving in the armed forces, and that would even halt the shipment of milk to the Relocation Centers where these people are detained. It is legitimate to ask whether protective custody has not been the first of a series of backward steps, with the end not yet in sight.

6. Discrimination not justified merely because any attack might come from Japan.

It has been argued also that discriminatory evacuation was necessary because any attack upon the West Coast might come from Japan. Obviously, this argument has merit only if there is evidence that persons of German, Italian, or other ancestry would not aid the enemy and that the only aid which the enemy could expect would come from those of Japanese ancestry. Certainly, this ignores the solidarity of the Axis and runs counter to all our past experience.

In the first place, it is obvious that Germany had a great deal to do with the decision concerning the initiation of war in the Pacific. Japan struck, it will be remembered, when the flow of supplies from the United States to Britain was beginning to become embarrassing and hurtful to the Reich. To assume that Germany and Italy, or their sympathizers are not interested in West Coast war plants, or in the course of the war in the Pacific, is simply wishful thinking; and, what is more, in case of invasion or attempted invasion, it would be precisely these people, who are Caucasians, who could command access to the vicinity of war plants and defense installations much more readily than could easily detected Japanese. The very physical features which mark them apart make them easily distinguishable, and, therefore, less valuable in case of invasion.

It is a matter of fact that the only agents of Japan who have been apprehended and convicted have thus far been persons of other than Japanese ancestry. On June 5, 1942, for instance, Frederick V. Williams and David W. Ryder of San Francisco, were sentenced to prison as Japanese Agents.[75] On September 10, 1942 according to

75. *New York Times*, June 6, 1942

a United Press dispatch, Igor Stepanoff admitted that he had acted as an agent of Japan.

If, for no other reason, the Axis nations of Europe, not Japan, are understandably interested in curtailing the productivity of the West Coast: the war materials that are manufactured there find their way in larger quantities to the European fighting front. It will be remembered that it is the Consolidated Liberator, made in Southern California, which is the bomber used extensively in the Mediterranean area; the Douglas Boston, made in this region, has been a mainstay of London defenses; the Vultee Vengeance is the craft with which the R.A.F. and United States forces carry on dive-bombing forays in the Atlantic theatre of the war. If we have ignored these facts, the German and Italians have not. It is well known that the German and Italian Consulates of San Francisco and Los Angeles were hives of subversive activity until they were closed. Actual sabotage on the part of persons of Italian and German ancestry have been reported, although not one instance of such behavior on the part of anyone of Japanese ancestry has been verified. For instance, on October 10, 1942, Nicholino Buonopane, a 23 year old electrician at the North American Aircraft Corporation, confessed to the sabotaging of bombing planes. The Associated Press dispatch of November 17, 1942, reported the sentencing to fifteen years in prison of M. W. Etzel for damaging airplanes. In June of 1942, Dr. Hans Helmut Gros, an American-born Nazi agent and his wife were convicted of sending military information out of the United States in order to help the Nazi cause. On June 3, 1942, William Arthur Schuler, a radio operator, was given a six year prison term in federal court by a federal judge in Los Angeles for sending wireless messages intended for the enemy. In court testimony

on July 29, 1942, at Hartford, Connecticut, it was revealed that Gerhardt Wilhelm Kunze, leader of the German-American Bund, had in 1941 methodically traveled the Pacific Coast gathering information on gun emplacements and vital military information. This information, it may be noted, was intended to reach Japan as well as Germany.[76] If Germany and Italy are totally uninterested in the West Coast, or its fate in the event of invasion, or attack, this feverish activity of which the instances cited are only a small sample must be satisfactorily explained. As a matter of fact, the treatment of the various groups of enemy ancestry and the actual train of events which relate to national security seem to have very little in common. On the evening of June 27, 1942, the announcement was made to the Nation of the capture of German saboteurs who had landed at two points on the East Coast and who had been able, with the aid of friends, to penetrate to the midwest. Yet the next day, on June 28th, notwithstanding this outstanding evidence of German sabotage activity, German and Italian aliens were permitted to reenter Western defense areas which had been closed to them for months.[76a]

If it was necessary to remove all persons of Japanese ancestry from Western defense areas because an attack there might have presumably come from Japan, it is not clear why those of German and Italian ancestry were left undisturbed on the East Coast, which faces their mother countries. Everything that is true of the West Coast in a military sense is true likewise of the East Coast. There are important harbors and defense installations there. Our ships have been sunk in such numbers off the East Coast that it has been repeatedly asserted that the enemy must be obtaining important information about ship move-

76. *Los Angeles Daily News*, July 30, 1942.
76a. *New York Times*, June 29, 1942.

ments from sympathizers on the mainland. German submarines have flourished in the Caribbean and bombarded oil refineries there. Trained saboteurs have actually been landed at two points on our coast and have been able to find aid and comfort among relatives and friends inland. The Atlantic is much narrower than the broad Pacific, and, accordingly, more accessible to invasion and bombing.

7. The argument that these people have been alienated by past treatment answered.

One other rationalization, and a most ominous one, for approving discriminatory evacuation, exists. It is said that since persons of Japanese ancestry have been discriminated against, legally and socially, in American life, they bear resentment against this country and would be likely to retaliate by betraying our west coast to an invader.

If this reasoning is upheld, the country enters a treadmill of intolerance from which there is no escape. Once concede to racists and bigots that the reward of their persecution and slander is discrimination on a national scale and discrimination approved by the highest courts, and the forces are unleashed that will scar and split this nation from end to end.

The psychological basis of this type of thinking is simple and well-known: it is the mechanism of projection. By it, individuals who are moral cowards transfer their sense of guilt for their own personal misdeeds to their victims. It is unthinkable that our country should attempt to justify itself in so crude and obvious a manner. By such convenient reasoning, every horror ever perpetrated on a people can be made acceptable, for discrimination usually precedes some more drastic step. By it, the Nazi treatment of the Jews is vindicated, for the Jews of Ger-

many had suffered civil and social disabilities and therefore, by this sadistic turn of logic, should have been ripe for treason to the Reich precisely as Herr Hitler declared. Every national, racial, and religious minority which has come to this country has in turn been despised and exploited by some who had come before. If this were the only factor operative, our country would be a seething volcano of group antagonisms. But the normal human being remembers friendship as well as injury, kindness as well as hate. The Japanese in America have had their implacable foes but they have also always had their advocates. They have known injustice and they have known justice--and they will know justice again. Opportunistic local politicians have tried to curry favor with the ignorant by passing repressive measures against them: but the courts, then as now, have declared the great majority of these to be invalid. The immigrant Japanese found conditions hard in this land, but they had come from a place where life was harder still. They were certainly subjected to social discrimination, but they came from a country where a rigid caste system operated to the disadvantage of most of them. For every bigot or politician who attempted to drive them into bitterness, there was a teacher, a churchman, a decent citizen who encouraged and inspired them. Even in this crisis, despite the wicked attempt of some elements of the press and in political life deliberately to confuse these hard-working and innocent folk with the Japanese enemy, they do not lack sympathizers and defenders.

Fortunately the forces of evil, past and present, are not as all-powerful as the superficial would like to think. They have not succeeded in isolating these people or in alienating them from the main stream of American life. Some time before the outbreak of war the young Americans of Japanese ancestry sent to Congress the Japanese

American Creed, already referred to in outlining the interest of the Japanese American Citizens League, as an expression of their faith and hope. There is no complaint, no syllable of peevish hurt in it. The only bitterness that may arise in connection with it is that chastened bitterness of the native white American who reads it and reflects upon what we have done to these people.

When the die for discriminatory evacuation was cast, and every reasonable grounds for bitterness and resentment existed, those of Japanese ancestry in this country showed a calm and serenity that was perfectly astonishing. The National President of the Japanese American Citizens League issued this message to the affected section of our population:

> "We have carried on a good fight, to the best of our ability, to safeguard the welfare of our citizens and to give assurances that the Nisei citizens, in the overwhelming main, are loyal and patriotic Americans. Despite our efforts, however, the tide of public opinion has been too strong, although numerous Caucasian friends have given us splendid support and encouragement. These sympathizers have been truly a pillar of strength for those of us who gradually came to realize what the inevitable outcome was going to be.
>
> "Instead of harboring bitterness in our hearts, we are most grateful for the confidence our Caucasian friends have reposed in us in our hour of trial. We will surely demonstrate that their trust in us is fully warranted, and that our Nisei citizens are capable of taking their full share of responsibility in the crucial fight to defeat the enemies of our country at home and abroad."[77]

On May 9, 1942, in a speech at Cleveland, Ohio, the National Secretary of the Japanese American Citizens

77. *Pacific Citizen*, March 1, 1942, p. 1.

League explained what his group resented and against whom they held bitterness. He said:

> "True, our evacuation has been and is—a bitter pill to swallow. But we are not bitter against the United States—we are bitter against Japan, the nation whose 'stab in the back' forced us, who happen to look like them, to pay the price for their infamy and cowardice."[78]

Even long after evacuation, when the Japanese and Americans of Japanese descent who had lived peacefully and usefully on the coast in happier days were languishing in Relocation Centers, an event occurred which tested their faith and strength to the utmost. On October 19, 1942, 600,000 Italians were freed of the stigma of being classified as enemy aliens. Even before the effective date, the reaction of the less fortunate group of citizens whose good name had not been cleared was registered through the official organ of the Japanese American Citizens League. That reaction should bring eternal shame to those who would pile discrimination upon injustice because of an unrealistic fear of fancied resentment for mistreatment suffered sometime in the past. Said this editorial:

> "We hail the official recognition of what we know too well: That being an alien from an enemy country does not necessarily make one an enemy alien. The lifting of the 'enemy alien' from loyal Italians in this country is official, black-and-white, down-in-writing recognition of this fact."

In the concluding paragraph there are no invidious comparisons, no recriminations, no requests for special

78. *Pacific Citizen*, June 4, 1942, p. 5.

favors. There is simply and patriotically a plea for equal treatment before the law and an associated recognition of the cause for which we are fighting:

> "Government recognition of 'loyal aliens' of Italian, German and Japanese nationality will serve notice that we are fighting not races, but false ideas and the men who foster these ideas. We are not fighting those who by accident of birth are Italians, Germans and Japanese and yet, in heart and mind, are Americans. They too are allies."[79]

8. Behavior of these Americans of Japanese ancestry could have been anticipated; Hawaiian Islands *versus* Pacific Coast, a contrast.

It has been said time and again that discriminatory evacuation was necessary because there was no way of knowing how persons of Japanese ancestry would have behaved in case of an invasion of the Coast. No argument is more false or more discredited. Those who advance it find it convenient to overlook entirely the fact that persons of Japanese ancestry resided in large numbers at the very place where Japan had attacked our soil. When the air was filled with Pearl Harbor rumors of sabotage and disloyalty, these people were quick to say that we must take Hawaii and Pearl Harbor as an indication of precisely what would happen in case of an attack upon the mainland. Now that we do know what really happened in Hawaii, now that we do know that persons of Japanese ancestry there fought in the armed forces, took their civilian posts, gave of their blood, and stood shoulder to shoulder with others in repelling the invaders, we must

79. *Pacific Citizen*, October 15, 1942, p. 4.

insist that the parallel then drawn between Hawaii and the mainland be adhered to.[80]

It has also been said that, although the vast majority of those of Japanese ancestry would undoubtedly have been loyal, a few might have given help to the enemy, and, therefore, evacuation of the whole group was imperative. This is an amazing doctrine to find soberly proposed in a democracy. It is terrible enough to punish individuals for misdeeds which others perform, but to punish them for misdeeds which others may *conceivably* perform is close to unspeakable.

This argument, used as a justification for evacuating a whole group because of the possible disloyalty of a few among them, is born of the idea that absolutely nothing was done prior to evacuation to investigate or curb the activities of the potentially subversive. If it can be demonstrated that the Federal Bureau of Investigation and other agencies performed their function faithfully and intelligently enough to control all dangerous aliens, this rationalization loses its weight and meaning. It is no secret that Federal investigators carried on their work in West Coast areas for five years before the outbreak of war. Long before hostilities opened on October 21, 1941, to be exact, F.B.I. Agents visited the Japanese business district in Los Angeles, questioned the officers of Japanese organizations and confiscated records which they thought might be useful in controlling axis activi-

80. For evidence of the unqualified loyalty and patriotism of the Japanese residents and American Japanese in Hawaii at the time of Pearl Harbor attack, see:

Thomas Clark Blake, Remember Pearl Harbor, 1942.
Thomas Clark Blake, "Some Japanese in Hawaii," *Asia*, 1942.
Thomas Clark Blake, "Japanese in Hawaii," *New Republic*, September 14, 1942.
House Report No. 2124, 77th Congress, 2d Session, May, 1942 (Tolan Report), pp. 48-58.
Loomis, Charles F., "Can Hawaii Take It," *Hawaii Educational Review*, April 1942.
Charles S. Bouclog, "Hawaii Shows Japan—and Asia," *Asia*, 1942.

ties.[81] On November 28th, new immigration regulations went into effect which prevented any alien leaving the United States without a valid passport, an alien registration receipt, and a clearance certificate from his draft board. This ruling was instituted as a defense measure to prevent espionage agents from operating in the guise of fishermen.[82]

On December 10th, when Attorney General Biddle announced that the Federal Government had arrested 2,303 enemy aliens, among them 1,291 Japanese, he said:

> "The arrests were made in accordance with a plan of action made months ago after investigation of the persons concerned. Everyone taken into said custody had been under observation for more than a year and had been listed either as a dangerous alien or one that was considered that it would be unwise not to apprehend. * * *"[83]

Again on December 12, Mr. Biddle stated that arrests were limited to persons whose activities had been under investigation by the Federal Bureau of Investigation for some time.[84]

On January 29, on the recommendation of the War Department, Mr. Biddle ordered all Japanese, German, and Italian alien enemies from vital areas in San Francisco and Los Angeles.[85] The Office of War Reports in its weekly publication "A Week of the War" announced on January 30th: "Attorney General Biddle ordered all German, Japanese, and Italian Nations to leave specified vital areas in San Francisco and Los Angeles by February 24, and announced that 27 additional prohibited areas recommended by the War Department would be published

81. *Los Angeles Times*, November 13, 1941.
82. *Los Angeles Times*, November 28, 1941.
83. *New York Times*, December 11, 1941.
84. *New York Times*, December 13, 1941.
85. *New York Times*, January 30, 1942.

later. Mr. Biddle said 'several thousands' aliens, mostly Japanese, would be affected by this first order.''[86]

The same publication announced on February 6th:

> "Attorney General Biddle announced 86 areas in California have been declared prohibited to alien enemies, and in 12 others curfew restrictions have been imposed. The prohibited areas include the entire coastline of California from the Oregon border south to a point approximately 50 miles north of Los Angeles, and extending inland for distances varying from 30 to 150 miles. Mr. Biddle also announced that, beginning February 15, 1942, 7 areas in Washington and 24 in Oregon, will be prohibited to Japanese, German and Italian aliens. When the prohibitions become effective, any Axis alien found on forbidden territory will be interned for the duration of the war. The Justice Department also said enemy aliens affected by the evacuation orders must observe all the regulations that are in effect concerning travel and change of residence."

In announcing this new move, Lawrence E. Davies, wrote from San Francisco to the New York Times:

> "The chief aim of the Department of Justice and the War Department appeared to be the protection of vital industrial and waterfront areas from potential Fifth Columnists.''[87]

On February 13th, the Office of Government Reports revealed that Mr. Biddle had even designated 18 prohibited areas in the State of Arizona, from which all aliens of German, Italian and Japanese nationality were to be excluded after February 24, 1942.[88] Early in February the F.B.I. had arrested 1361 Germans, 2007 Japanese and

86. "A Week of War," January 30, 1942, p. 8.
87. *New York Times*, February 1, 1942.
88. "A Week of War," February 13, 1942.

261 Italians and was holding them for appearance before enemy alien hearing boards.[89]

Charles Iglehart has indicated that the Department of Justice was extremely thorough in its investigation and detention of suspected Japanese aliens, perhaps too thorough:

> "In the first two days after Pearl Harbor the Department of Justice threw its net around 2,000 Japanese aliens; later it raided approximately 2,000 more; and all these are now in detention. I talked with some of them at their camps and found them living in very decent conditions and uncomplaining. I understand that only one or two in a hundred were suspected of actual complicity in any subversive activities; most of them had merely subscribed to some fund or belonged to some organization that was open to question."[90]

On July 18, 1942, Edgar Hoover of the Federal Bureau of Investigation summed up the prewar work of his organization and discussed the internal security of the country in these words:

> "The attack on Pearl Harbor found the F.B.I. completely mobilized on a wartime basis and ready for any emergency. In the first 24 hours after the attack more than 1,000 of the most dangerous enemy aliens were rounded up."

Those who argue that extremely dangerous elements might have been among the evacuees, and who exaggerate the danger that a few persons with subversive inclinations might have achieved, ignore entirely these vigorous counter measures and the long continued work of the F.B.I. They would like to give the impression that nothing had

89. *New York Times*, February 5, 1942.
90. Charles Iglehart, "Citizens Behind Barbed Wire," *The Nation*, June 6, 1942, p. 649.

been done to secure the West Coast or to cope with disaffected individuals.

Now we know from these and many more pieces of evidence that might be cited that vital defense areas were being adequately protected; that the coast and sea lanes were being guarded from enemy agents; that suspicious individuals had been hurried to internment at the onset of the war and that the coast was secure from everything except intolerance.

To return again to the example of Hawaii, it is a strange thing that all the arguments for West Coast evacuation apply much more to a place where evacuation never took place. It is said that the West Coast evacuation was necessary because of danger from attack. Yet it was at Hawaii that the first and most important attack of the war took place and Hawaii is 1500 miles closer to the main theatre of war in the Pacific. It is said that evacuation was necessary because of the numbers of persons of Japanese ancestry on the West Coast, yet in Hawaii they represent 37 per cent of the population and on the West Coast approximately 1 per cent. Hawaii too had its Japanese language schools (and Chinese and Korean language schools as well). It had Shinto Shrines, dual citizens and residents who had taken trips to Japan. Hawaii and the treatment of those of Japanese ancestry in Hawaii are the enduring refutation that all these "reasons" for the West Coast evacuation will not endure the tests of logic and time.

9. Military orders due to race prejudice.

(a) Organized anti-Japanese agitation had set the stage for evacuation.

In his treatment of the beginnings of anti-Japanese agitation on the Pacific Coast, a historian writes:

> "Our story is one of race prejudice. A certain element on the Pacific Coast did not care to live cheek by jowl with the masses of the Orient—and they did not hesitate to say so."[91]

There is every reason to believe that evacuation is simply an additional chapter in this un-American movement, and not, as claimed, a matter of strict military necessity. The evidence indicates, to be very direct, that a small but highly organized vigorously anti-Japanese element on the West Coast, particularly in California, took advantage of the fears, confusion, rumors and emotions engendered by the war to press their fanatical program, and that the formula of military necessity is a face-saving device by which the nation now seeks to excuse the extent to which it has yielded to the historic Know-Nothingism of the West.

To appreciate this fully, one must be somewhat conversant with the spiritual and political blight which has been endemic in California for over 100 years. Says Mears:

> "Californians have inherited a distinct color prejudice from the early conquerors, who found the territory peopled with dark-skinned Indians and Spaniards. This feeling is not nearly so strong in the Pacific Northwest, where there is less imprint from other than white races."[92]

In her classic study of Chinese immigration, Professor Coolidge has sketched the background of the emergence of acute race antipathies in this region:

> "The disorders in the mines of California in the first years were due to many and complex

91. Thomas A. Bailey, Theodore Roosevelt and the Japanese-American Crisis, p. 1.
92. E. G. Mears, *Resident Orientals On the American Pacific Coast*

causes. The doctrine that California was for Americans alone, and that all foreigners were trespassers, was acted upon under the impetus of greed and jealousy, although not justified by law. Race antipathy was mixed with the political doctrines of Know-Nothingism which shortly afterward rolled in a wave across the country from East to West. In the West, the so-called Americans—native, naturalized and unnaturalized — of whom a considerable proportion were Irish Roman Catholics, combined against the brown, black and yellow foreigners in the mines.

"The anti-foreign feeling in California was unquestionably intensified by the presence of Southerners, who comprised nearly one-third of her population in the first decade. Of these a minority were educated, pure-American stock who brought, in some cases, their slaves with them and a profound conviction that this should be a white man's country. But this class was greatly outnumbered by immigrants from the border states of the Pike county Missourian type, whose ignorance and extreme race antipathies classed all persons, other than European whites, together. South Americans, South Europeans, Kanakas, Malays, or Chinese—all were colored; even the French, partly because they were of a darker skin and partly because they, like the Spanish Americans were too high spirited, were attacked as foreigners. The Germans, Irish and Englishmen alone were excepted, although many of them were not naturalized, and had far less right in the country than the native Indians and Spaniards."[93]

By the 1870's, the Spanish-speaking people of California had been subordinated, the Indians were practically eliminated, and other elements had shrunk in numbers and influence. The full force of this accumulated

93. Mary Roberts Coolidge, *Chinese Immigration*, pp. 28-29.

intolerance spent itself on the hapless Chinese. The invective and violence to which the Chinese were treated have few parallels in history. The antics of some politicians to win favor by anti-Oriental utterances was as fantastic then as is the behavior of their modern counterparts in the crusade against persons of Japanese ancestry today. Said Frank M. Pixley, representing the Municipality of San Francisco before a Congressional Committee in 1876:

> "The Chinese are inferior to any race God ever made * * * I think there are none so low. * * * Their people have got the perfection of crimes of 4,000 years. * * * I believe that the Chinese have no souls to save, and if they have, they are not worth saving."[94]

In 1877, the California Senate released a Memorial which raged against the Chinese in the State. One paragraph is enough to convey its temper:

> "During their entire settlement in California, they have never adapted themselves to our habits, mode of dress, or our educational system, have never learned the sanctity of an oath, never desired to become citizens, or to perform the duties of citizenship, never discovered the difference between right and wrong, never ceased the worship of their idol gods, or advanced a step beyond the traditions of their native hive. Impregnable to all the influences of our Anglo-Saxon life, they remain the same stolid Asiatics that have floated on the rivers and slaved in the fields of China for thirty centuries of time."[95]

To properly evaluate the worth of the current lurid charges against persons of Japanese ancestry, it is helpful

94. *Ibid.*, p. 96.
95. *Ibid.*, p. 87.

to review one or two of the typical statements from "statesmen" of an earlier decade. James D. Phelan, Mayor of San Francisco from 1897-1901 and later United States Senator from California, was the author of this spiteful judgment:

> "The Chinese are without home and families; patronizing neither home, school, library, church nor the theater; lawbreakers addicted to vicious habits; indifferent to sanitary regulations and breeding disease; taking no holidays and respecting no anniversaries; but laboring incessantly and subsisting on practically nothing for food and clothes, a condition to which they have been inured for centuries; they enter the lists against men who have been brought up by our civilization to family life and civic duty."[96]

Even as late as 1906, George C. Perkins, United States Senator from California, dipped into his florid vocabulary to find still more offensive terms in which to describe the Chinese residents of his commonwealth:

> "Bringing with them slavery, concubinage, prostitution, the opium-vice, the disease of leprosy, the offensive and defensive organization of clans and guilds, the lowest standard of living known, and a detestation of the people with whom they live and with whom they will not even leave their bones when dead, they form a community within a community and there live the Chinese life."[97]

It was too much to expect that all this spleen would quietly disappear after the Chinese had been excluded and outraged. The animus was easily transferred to the next comers, the Japanese.

96. *Ibid.*, p. 423.
97. *Ibid.*, p. 423.

Sporadic agitation aimed at the Japanese in America began as early as 1890, but it did not reach organized and formidable proportions until 1905. On May 7 of that year, the Japanese and Korean Exclusion League, later to become the Asiatic Exclusion League, was founded, with the express purpose of extending the Chinese Exclusion Law to the Japanese. The organizer and first president of the body was O. A. Tveitmoe, a Norwegian immigrant who became a powerful labor leader in San Francisco and saw the political possibilities of anti-Japanese agitation. Some time later, it was discovered that this worthy had been convicted of forgery in 1892 and had been sentenced to eighteen months in a Minnesota state prison.

The secretary of the Japanese-Korean Exclusion League was a man named Arthur E. Fowler, who attempted to duplicate Tveitmoe's success in Seattle, where he had been employed as a cook prior to his elevation. While Fowler was more honest than Tveitmoe, he was evidently less stable, for in September, 1907, he was adjudged insane and committed to the asylum at Stellacoom, Washington.[98]

This curious chain of events caused Arthur I. Pope, Professor of Philosophy of the University of California to exclaim, "The fact that the anti-Japanese agitation was inaugurated by a criminal, in co-operation with a lunatic furthered by labor agitators and sustained by a yellow press, ought in itself have been enough to damn it. * * *"[99]

But, unfortunately, it was not damned. Instead, the path was blazed and the tone set by the criminal and the insane for future anti-Japanese manifestations. The arguments that these indescribably ignorant, violent and

98. K. K. Kawakami, American-Japanese Relations, pp. 304-05; 324-25.
99. In K. K. Kawakami, *The Japanese Question, A Symposium*, p. 18.

vulgar mobsters invented and utilized, those absurd and false generalities of unassimilability, treachery, dishonesty, and immorality, are the very ones which embellish the diatribes of today against this minority group. Intolerance needs no new arguments so long as it has convenient victims.

There is no need to recite in detail the history of anti-Japanese agitation on the West Coast.[100] The Japanese and Korean Exclusion League grew into the Asiatic Exclusion League. The Asiatic Exclusion League became the California Joint Committee on Immigration after its goal, the Asiatic exclusion provision, became part of the Immigration Act of 1924. This alone proves that the program of these racists was elastic, opportunistic and insatiable. Their true goal, whatever the pretense and immediate stated objective, was, and is, persecution—persecution without reason or end. This was no less true at the time of evacuation. They reduced patriotism to loathsome lies and sacrificed a defenseless people on the altar of greed and hate. Their stated concern was merely the safety of the coast and the welfare of the country which they wished to protect. For the benefit of churchmen, educators and friends of democracy, they shed an occasional crocodile tear because "the innocent had to suffer with the guilty." But, as soon as evacuation became an accomplished fact, the fangs were bared and the story changed. Evacuation was used as a "proof" of disloyalty or incipient disloyalty. Campaigns to disenfranchise the citizens, to deport the aliens, to deport everyone, were launched. And this war within

100. For a good sketch of the history of Anti-Japanese agitation see House Report No. 2124 (Tolan Committee Report), May 1942, pp. 72-90. Also consult Thomas A. Bailey, *Theodore Roosevelt and the Japanese-American Crisis;* Raymond L. Buell, "Development of Anti-Japanese Agitation in the United States," Political Science Quarterly, 1923, pp. 47-81. H. A. Millis, *The Japanese Problem in the United States*, pp. 220-251.

a war, this invasion of the rights of a minority at home, this vicious, relentless attack on the security of women, children and the aged, continues at the present time.

(b) Selfish interests took advantage of the war situation to advocate evacuation.

The real story of evacuation is the history of a militant and vicious minority, who for selfish gains, took advantage of the ation's ignorance of the real issue, and by confusion and distortion, caused the unwarranted exclusion of a defenseless people. On February 21, Lawrence Davies sent an important special dispatch to the New York Times in which he reported, "E. M. Seifert, Jr., president of the Grower-Shipper Vegetable Association, takes the position that 'for the protection of future generations of Californians and Americans, no Japanese, even though he be born in America, should be permitted to own land.' "[101] Thus did an organization, which had been in competition with growers and marketers of Japanese ancestry, try to solve its economic problems in the Nazi way.

In an article published in May, 1942, a little more light is shed on the feverish activities of this organization. To quote:

> "The Salinas Vegetable Growers-Shippers Association had just published a brochure entitled NO JAPS NEEDED, to counteract a widespread impression that Californians would go hungry if the Japanese truck gardeners were removed. * * * The dislike of the militant Growers-Shippers Association for the valley's Japanese farmers is an old and bitter one. The association is composed of a few score large-scale white growers who lease lands, produce lettuce, carrots and other fresh veg-

101. *New York Times*, Feb. 22, 1942.

etables the year round in the Salinas, Imperial and Salt River valleys for the Eastern markets. * * *

"Shortly after December seventh, the association dispatched its managing secretary, Austin E. Anson, to Washington to urge the Federal authorities to remove all Japanese from the area. Anson pointed out to the War and Navy departments, the Attorney General, to every congressman who would listen to him, how the Salinas valley sloped off into Monterey Bay, a most inviting landing place for an invading army; how the valley's Japanese, if they chose to do so, might blow up bridges, disrupt traffic and sabotage defense.

"We're charged with wanting to get rid of the Japs for selfish reasons," Anson told me. "We might as well be honest. We do. * * * If all the Japs were removed tomorrow, we'd never miss them in two weeks, because the white farmers can take over and produce everything the Jap grows. And we don't want them back when the war ends, either."[102]

In this manner, we get some insight into the origin of the "military necessity" argument. The spectacle of that hardy veteran of the war to control lettuce, Mr. Anson, lecturing the generals on military strategy and the vulnerability of the west coast, is one of the degrading episodes of the world conflict.

That neither Mr. Taylor nor Mr. Anson have exaggerated the influence of the selfish economic motive in evacuation is supported by the testimony before the Tolan Committee of Floyd Oles, manager of the Washington Produce Shippers Association, a cooperative formed by Caucasian and American-Japanese farmers who were engaged in marketing fresh produce for eastern markets. Mr. Oles told the committee:

---

102. Frank J. Taylor, "The People Nobody Wants," *Saturday Evening Post*, May 9, 1943, p. 24 *et seq.*

"In this area, farming is done, as you have already discovered, by small individual farmers—independent farmers. In our largest competing area in California, the major portion of the production is in the hands of farming corporations who do business on a grand scale. As one of them explained it to me on the phone the other day, 'You people have been a pin prick in our back for a long time up there, with your small production, and we think now we can get rid of you.'

"Whether that is a large or small issue, or activating motive, I think that it should not be overlooked, because I receive in the mail every day now, from these people in California, considerable volumes of propaganda on this point, eagerly seeking evacuation for commercial reasons."[103]

Similar evidence was given by Mrs. Esther S. Boyd, president of the Yakima McKinley Parent Teachers Association and a prominent resident and business woman of the region, in her appearance before the Tolan Committee. In a prepared statement Mrs. Boyd wrote:

"• • • But there now develops on the part of some white people the desire to get rid of these Japanese who have worked so diligently, educated their children well, and achieved some measure of financial security. The great cry of 'Kick the Japanese out of the Yakima Valley' is not due to fear of sabotage; it is due to economic reasons. As one person naively explained to me, 'The white farmer would have more land and more water if he could get rid of the Japanese, and he could demand a higher price for his farm produce.' Is this a more patriotic attitude than that of the Japanese man who said to me, 'I don't want to make a profit this year, Mrs. Boyd; all I want is

103. Hearings Before the Tolan Committee, Part 30, p. 11432.

to raise a crop and have enough to feed my wife and myself' "!

When Mrs. Boyd was being interrogated by members of the Committee, she responded, in answer to Congressman Bender's desire to know whether white men were using the emergency as a means of cheating those of Japanese ancestry of their property: "I am positive that many of them feel that it is a golden opportunity for that. I had one man say, 'Well, we will kick the Japanese off the reservation (Yakima Indian Reservation, where land is leased to outsiders for agricultural purposes), and we will give the white man a chance.' "[104]

The depths of parvanimity, in which the authors descended to pidgin-English to express their contempt for the unfortunates whom they meant to dispossess, is the statement handed the Tolan Committee by the executive secretary of the Seattle Retail Florists' Association.

Said this body, to which any competition is, presumably, "infiltration":

> "The Japanese infiltration into the floral industry is one of economic penetration with all its many ramifications, and indifference to all laws—Federal, State and city. This is accomplished with the bland expression 'Me, no understand.' • • • Our experience has shown us that the majority of Japanese, American or alien born, are not American citizens in the true sense of the word and we wholeheartedly endorse any program of evacuation."[105]

The pressure for the prostitution of our war aims to meet the unblushing demands of selfish economic interests continues. In the *American Nurseryman* for October 1,

104. Hearings Before the Tolan Committee, Part 30, pp. 11584-11585.
105. Hearings Before the Tolan Committee, Part 30, pp. 11610-11611.

1942, it is revealed that a group within an industry in which persons of Japanese ancestry once had strong representation were not deterred by the national emergency from taking steps looking to the future, for it is reported: "Concluding the meeting, Ray D. Hartman requested, for the resolutions committee, that action be urged on the part of the federal and state agencies to prevent the reestablishment of the Japs in California after the war."

Describing the demands for the evacuation, Clarence E. Rust testified before the Tolan Committee:

> "• • • The clamor seems to come from chambers of commerce, Associated Farmers, and the newspapers notorious as spokesmen for reactionary interests. In view of this fact, effort should be made to determine whether there is any connection between the clamor for the dispossession of the Japanese farms and the desire of these clamoring interests to get possession of the Japanese competition."[106]

A report, submitted by Eric C. Bellquist of the Department of Political Science of the University of California, to the Tolan Committee reveals that:

> "As the committee has had ample evidence already, popular resentment toward the enemy is already finding expression in discrimination and even physical violence against fellow residents of alien extraction; distrust, for example, of the Japanese government being transferred to all persons of Japanese race, citizens and aliens alike.
>
> "Here on the coast we have a radio commentator who views the news at 9 o'clock in the morning. For some time, he has been urging that every Japanese, alien or citizens be transplanted to the

106. Tolan Committee, Part 29, San Francisco Hearings, Exhibit 9, p. 11254.

other side of the Rockies. In appeal after appeal he has incited the people and aroused their suspicion. We have a former far eastern newspaper correspondent who, toward the end, had difficulties in Japan and has since been reviling the Japanese in our country and urging restrictive action of far-reaching scope against both aliens and citizens. We have certain interests in the State—some agricultural, some 'patriotic,' some closely affiliated with certain newspapers—which have long been hostile to orientals in general as well as other aliens, and which have now found a golden opportunity to come out against the Japanese on the Pacific coast. City councils and county boards of supervisors have been passing restrictive ordinances, petitioning the Congress to enact legislation against our Japanese, and in many respects to take over functions properly belonging to the National Government. The mayors of our two largest cities, as well as many smaller ones, have lost their composure along with the rest. The State personnel board at Sacramento has sought to take action contravening the Constitution as well as the expressed sentiment of our highest officials, including the President.

"Altogether, as the committee has witnessed, the State of California, as well as Oregon and Washington, has been giving a demonstration of lack of balance and outright intolerance which will blacken its record for many years to come. If our public authorities have thus succumbed to hysteria, one can well understand, if only deplore, the housewives who dismiss Japanese gardeners and servants and farmers who discharge help because of citizenship or extraction. On the whole, the public has not shown so much hate or spite, except as it has been incited to do so. But pressure groups and shortsighted politicians facing an election year are out for blood and wholesale internment. Jingoes are endeavoring, under the cover of wartime flag-

waiving patriotism, to do what they always wanted to do in peacetime—get rid of the Japanese, harness labor, and frighten the liberals, as Louis Fischer has just pointed out in one of his reports from the coast.

"From the hearings which the committee has conducted, I am sure that its members must have obtained a suspicion that the attitude which now prevails cannot be a matter of mere chance; that it is rather the result to no small extent of organized pressure. Certainly the course of events would appear so to indicate.

"Despite the treacherous nature of Japan's attack on Pearl Harbor, there was no immediate reaction of suspicion of aliens in California. While at the outset our people were naturally somewhat confused and alarmed at the events of early December, there was little hysteria. Californians kept their heads remarkably well. There were few if any serious denials of civil rights to either aliens or citizens of Japanese race on account of the war. As late as December 29, 1941, the Northern California Committee on Fair Play for Citizens and Aliens of Japanese Ancestry could issue a statement expressing general satisfaction with the manner in which the American tradition of fair play had been observed. As its release of that date indicated, all the organs of public influence and information had discouraged mob violence and pleaded for tolerance and justice for all law-abiding residents of whatever race. Federal and local officials charged with maintaining order and suppressing subversive activities had shown both vigor and sympathetic consideration in the fulfillment of their duties, and private civic agencies had acted promptly to handle the many difficulties encountered by Japanese residents on account of necessary wartime restrictions on persons and property.

"In brief, up to the end of the year, there had been no panic and little infringement upon rights

and liberties. The people were calm and went about their business in getting ready to face the war, maintain morale, and put forth the common effort necessary to meet and defeat the forces of brutalitarianism.

"In short, there was no popular clamor for comprehensive restrictions or mass evacuation. Not until inflammatory commentators on the 'enemy-alien menace' undermined popular confidence did the present hysteria arise. I cannot believe that this is just a matter of chance. The committee will do well to endeavor to ascertain just what lies behind present clamor. What are the real motives?

"The appraisal which I have here made has been confirmed by several of the more thoughtful witnesses appearing before the committee. It is shared by most persons who are really familiar with the problem and have no ax to grind, persons farsighted enough to consider the Nation's interest in the future as well as the present."[107]

Galen M. Fisher has summarized this anti-Japanese cabal as follows:

"It would be quite false to charge that all advocates of evacuation were self-seeking or race-biased, but it is true that among them were the professional anti-Orientalists, such as the Hearst press, and certain politicians, merchants, farmers and realtors who itched for a chance to turn the anti-Japanese agitation to their own profit.

"Such were some of the major forces that drove the nation, as by fateful necessity, to adopt the drastic policy of indiscriminate evacuation of citizens and non-citizens alike, of Japanese ancestry."[108]

107. Tolan Committee, Part 29, San Francisco Hearings, Exhibit 7, pp. 11242 and 11243.

108. A Touchstone of Democracy, Council for Social Action of the Congregational Christian Churches, 289 Fourth Avenue, New York.

10. Americans of Japanese ancestry are just as loyal as any other group of American citizens.

Unfounded allegations and inferences have been constantly circulated suggesting that Americans of Japanese ancestry are a *peculiar people*, who, because of their ancestry *per se*, are more dangerous and disloyal than any other group of citizens.

It is interesting in this connection to note that specific charges which prove these allegations have never been made, but rather that false generalizations based upon half-truths and distorted conclusions have been permitted to cloud the real issues as to the intrinsic loyalty and allegiance of this much-maligned minority.

But, before examining these vicious rationalizations to determine their validity, let us look into the logic behind the arguments that persons of Japanese ancestry possess either inherent characteristics or have been indoctrinated in such a manner as to permit a reasonable classification for evacuation based solely upon race. By this theory, there is imputed to each person of Japanese ancestry those qualities which the calamity howlers have imputed to this racial group as automatically possessing. No more vicious doctrine could be invented. Without any proof whatsoever, these people allege that the Japanese have a tendency to be disloyal, are ancestor-worshippers (hence look to Japan for their spiritual allegiance), are Japanese nationalists, and in general are outside the pale of the American cultural pattern. It follows, so it is claimed, that every person with any amount of Japanese blood possesses these qualities.

Although the Court apparently approved the concept of "guilt by association" in *Whitney* v. *California*, 274 U. S. 357 (but with a dissent by Justices Brandeis and Holmes), the Court in later cases has moved away from

this position and has emphasized the importance of the individual guilt or innocence. *Herndon* v. *Lowery,* 301 U. S. 242; *De Jonge* v. *Oregon,* 299 U. S. 353.

In the cases cited, the question involved was whether guilt should attach to the defendant merely because of his association with an organization of allegedly subversive character. The Court did not, in the later cases cited, go into the views of the organization but held that regardless of what they were, the defendant could be found guilty only if he himself advocated proscribed views.

All these cases involved alleged membership in, or association with, a political organization. Such adherence, if any, is obviously a matter of choice. But what choice has a person to determine into what race he shall be born? If, as Chafee, in his "Free Speech in the United States" says, "This idea (of guilt by association) is absolutely abhorrent to every American tradition * * *," when applied to membership in proscribed organizations, *a foritori,* it is even more abhorrent where guilt is attached to membership in a particular race.

It is clear, therefore, that this arbitrary grouping together of all persons of Japanese blood into one category without individual examinations or hearings is not only illogical but also manifestly unfair and un-American. Without these (individual examinations and hearings), one of the most cardinal principles of American and Anglo-Saxon jurisprudence has been violated, namely: that guilt is personal in character and cannot be assumed on the basis of association.[109]

It is, of course, no answer to claim that guilt is not an issue in these cases at bar, nor that punishment has not been inflicted. This Court, for example, has not applied the "guilt by association" doctrine in deportation cases,

109. See Chafee, op. cit. pp. 470-484.

which are not criminal in nature. *U. S. ex rel. Vajtauer v. Cormick,* 273 U. S. 103. Furthermore, it is argued that persons of Japanese blood tended towards "unsocial" behavior, which implies some elements of "guilt", at least.

Whether or not strictly criminal in nature, exclusion certainly is a deprivation of liberty.

Since we cannot justly presume that every individual person of Japanese ancestry possesses the alleged characteristics of the Japanese race, let us examine the claimed characteristics of this particular race, for their validity.

It has been charged that American citizens of Japanese ancestry are disloyal. If Bouvier's Law Dictionary, 1934 edition, page 769, definition of loyalty, "adherence to law," is to be used as a criterion of loyalty, none can dispute that Americans of Japanese ancestry have the best record of any nationality group in this regard. The records of the criminal courts in all communities in which Japanese resided are uniformly conspicuous for their lack of arrests and convictions of Japanese for law violations, including the most petty ones.

As far as we know, there have been no reported cases of arrests of any American of Japanese ancestry for violating the sabotage sections, espionage acts, sedition laws, and state criminal syndicalism regulations before, on, and since the attack on Pearl Harbor. The Tolan Committee Reports contain pages upon pages of testimony to the effect that no sabotage occurred in Hawaii on December 7, 1941, contrary to the circulated rumors of fifth column activities there which furnished the race-baiters and professional Oriental-haters with their excuse for demanding the exclusion of persons of Japanese ancestry from the Pacific Coast.[109a]

109a. Tolan Committee, Preliminary Report, House Report #1911, p. 2; 4th Report, p. 48 *et seq.*

Not only is the record for law-obedience unusual insofar as this group is concerned but also in their showing in civic participation. Americans of Japanese ancestry and their resident national parents have consistently contributed more to such appeals for financial aid as the Red Cross, Community Chest, Infantile Paralysis, and Defense and War Bond drives. It is a matter of common knowledge on the Pacific Coast that the campaigns of American Japanese are the only ones which consistently over-subscribe their quotas. Indeed, even though Americans of Japanese ancestry now residing in the War Relocation Centers are receiving only twelve, sixteen, and nineteen dollars per month for their labors, most of them are subscribing at least ten per cent of their total wages for War Bonds and Stamps. Too, the American soldiers of Japanese ancestry stationed at Camp Shelby, Mississippi, training for special combat service, purchased $100,600 worth of War Bonds in two days, after learning of the executions in Tokyo of American airmen, according to the *Pacific Citizen,* April 29, 1943. When the "Buy a Bomber" campaign was conducted in San Francisco last February, the San Francisco chapter of the Japanese American Citizens League received nation-wide publicity for their leadership in raising funds to buy a bomber to bomb Tokyo. All of these should indicate that Americans of Japanese ancestry are interested in their country's welfare and future.

Another well-known trait of American Japanese is their ability to remain off the relief rolls because of their thrift, pride, and ambition. The National Secretary of the Japanese American Citizens League called these matters to the attention of the Tolan Committee at the San Francisco hearings.

An interesting sidelight on this matter of loyalty is the fact that practically every person of Japanese ancestry who fought in the armed forces of the United States

during the first World War became members of the American Legion.

Another noteworthy fact is that immediately following the outbreak of war, the Governor of California and most of the political leaders on the West Coast spoke of the loyalty of Americans of Japanese ancestry in no uncertain terms and called for tolerance and fair play for these people. The *Pacific Citizen*, official organ of the Japanese American Citizens League, featured these stories and testimonials in their New Year's edition for 1942. The National Secretary and Field Executive, in a special prepared statement, called attention to these unequivocal evaluations of the loyalty of American Japanese. It was not until the organized campaign for evacuation began that these same political leaders changed their tune and began to insinuate that Japanese Americans could not be trusted.

Still another example which may shed some light on the question of allegiance is the fact that many Japanese Americans, long before December 7, 1941, took the necessary legal steps to renounce their Japanese citizenship, over which they had no control because of the laws of Japan, and thereby renounced forever all their property rights in Japan. A naval intelligence officer, writing in the October, 1942, issue of *Harpers Magazine*, verifies this statement by stating: "A great many of the Nisei had taken legal steps through the Japanese Consulate and the Government of Japan to divest themselves officially of Japanese citizenship (dual citizenship) even though by so doing they became legally dead in the eyes of the Japanese law and were no longer eligible to inherit any property which they or their families might have held in Japan." It would seem that this common practice would certainly indicate the true allegiance of many American Japanese.

To the charge that American citizens of Japanese ancestry were clannish and unassimilable, the Japanese American Citizens League points to the records which show that, as the years went by and young Japanese Americans grew into maturity, more and more of their people were actively participating in the American scene. They point out that, in proportion to their numbers, more Japanese Americans have been valedictorians and honor students in their respective schools and colleges than any other group. They point out that several of their athletes, like Bill Kajikawa, have won all-American honors in their respective fields. They point out that, again in proportion to their numbers, more Japanese Americans have held elective offices in their schools and colleges than almost any other minority group. As a matter of fact, this spring, Kenji Okuda, an evacuee transfer student from the University of Washington, was elected student body president at Oberlin College, in Ohio. This is just one instance to illustrate how far Americans of Japanese ancestry have been accepted by their fellow Americans.

The same intelligence officer quoted previously in *Harpers Magazine,* after a thorough examination of the subject for the Navy, wrote as follows:

> "The Americanization of the *Nisei* is far advanced. The attitude of the *Issei* parents has had a great influence on the *Nisei* children. The last *Issei* to enter the United States did so in 1924—eighteen years ago. American influences have affected these *Issei,* consciously or unconsciously, directly or indirectly, since that time. It must be remembered that one of the chief factors affecting the Americanization of the parents has been the children themselves—in the reports they bring back from their school life, their play, and their association with white American children.
>
> "These factors have worked to a greater or lesser degree on the individual *Issei* parents. The

real conflict between the two ideologies, American and Japanese, is in the *Issei,* for they have their background of life in Japan and must struggle to reconcile these two very different phases of their lives.

"It must therefore be conceded that the Americanization of the *Nisei* children has proceeded with at least the tacit consent, if not the active co-operation, of many of the Japanese-born parents."

The Americanization of Americans of Japanese ancestry has gone much further than most people believe possible, and this, in spite of the many barriers placed in their way.

According to the authorities, the "ancestry" of those Americans born of Japanese parents is no barrier to their appreciation of and participation in American life. Moreover, it is absurd to claim that any *race* is innately incapable of assimilation into American life, for modern American culture is a pattern of elements which have originated with many peoples and in all quarters of the globe. Professor Ralph Linton of Columbia University has, in his *Study of Man,* wittily deflated this indefensible and undemocratic notion, the child of ignorance and provincialism:

"Our solid American citizen awakens in a bed built on a pattern which originated in the Near East but which was modified in Northern Europe before it was transmitted to America. He throws back covers made from cotton, domesticated in India, or linen, domesticated in the Near East, or wool from sheep, also domesticated in the Near East, or silk, the use of which was discovered in China. * * * He takes off his pajamas, a garment invented in India, and washes with soap invented by the ancient Gauls. He then shaves, a masochistic rite which seems to have been derived from either Sumer or ancient Egypt. * * *

> "When our friend has finished eating he settles back to smoke, an American Indian habit, consuming a plant domesticated in Brazil. * * * While smoking he reads the news of the day, imprinted in characters invented by the ancient Semites upon a material invented in China by a process invented in Germany. As he absorbs the accounts of foreign troubles he will, if he is a good conservative citizen, thank a Hebrew deity in an Indo-European language that he is 100 per cent American."

Unscientific too, is this blanket condemnation of a whole group of people. If individual differences are not to be recognized in this country, if the individual personality is not to be respected, if Nazi notions of mass or race guilt are fit evidence to place before an American court, what quarrel can there be with the totalitarians?

In his book, *Prometheus,* Professor H. S. Jennings has enunciated the scientific basis for individuality, and, incidentally, for democracy:

> "Every pair of human parents contains thousands of pairs of the packets of chemicals on which development depends. From these a set is drawn almost at random * * *; this constitutes the heritage of the child. Any pair of parents may thus produce, not merely thousands, but millions, of different combinations, each yielding a child of different characteristics."

And Professor Franz Boas, the leading anthropologist of our time, has eloquently struck out in his *The Mind of Primitive Man,* at the shabby habit of thought which underlies appellant's argument:

> "Our tendency to evaluate an individual according to the picture that we form of the class to which we assign him, although he may not feel any inner connection with that class, is a survival of

> primitive forms of thought. The characteristics of the members of the class are highly variable and the type that we construct from the most frequent characteristics supposed to belong to the class is never more than an abstraction hardly ever realized in a single individual, often not even a result of observation, but an often heard tradition that determines our judgment.
>
> "Freedom of judgment can be attained only when we learn to estimate an individual according to his own ability and character. Then we shall find, if we were to select the best of mankind, that all races and all nationalities would be represented."

Science, therefore, disposes effectively of the idea that individuals of a group are all alike in personality or that racial characteristics either of an individual or a group necessarily prevent assimilation. The question, then, is whether Americans whose parents or more remote ancestors happened to be born in Japan have taken advantage of American institutions and have made a conscientious effort to identify themselves with American ideals and American standards.

Fortunately, it is not necessary to guess or to resort to empty verbalism about the matter. The question has been thoroughly investigated a number of times. In 1937 W. C. Smith, Professor of Sociology at Linfield College, published his *Americans in Process: A Study of Our Citizens of Oriental Ancestry.* This book is not devoted to the study of those of Japanese ancestry alone, but it is eloquent with evidence relating to the assimilation, adjustment, effort, and patriotism of this group. A much more ambitious investigation, and one of the most thorough ever made of any group, was that made possible by a substantial grant from the Carnegie Corporation in 1929 to Stanford University. The work was carried out

under the direction of Professor E. K. Strong and resulted, beginning in 1933, in the publication of four volumes. It is a sad commentary on the degree to which perspective is lost when war hysteria grips a nation to realize that questions of loyalty and evacuation were settled on the basis of false Pearl Harbor rumors and panicky harangues of politicians, while factual reports of this nature were forgotten or ignored. Professor Strong and his large staff of co-workers used every possible source and device in gathering the data,—school records, crime records, business records, intelligence tests, aptitude tests, interviews, questionnaires, life histories, etc. The massive body of evidence cannot be given in full, but a few summary statements from Professor Strong's *The Second-Generation Japanese Problem* will indicate its nature:

> "The word 'assimilation' has two meanings—interbreeding and comprehension of political and social conditions. In the latter sense, the young Japanese are more readily assimilated than people of several European races; * * *" (p. 26).
>
> * * * * * * *
>
> "Evidently the Japanese immigrants have had far better education than that with which they have been credited, and their children are taking full advantage of the public schools of California. Such data as we have suggest that in this respect they average as well as whites" (p. 189).
>
> * * * * * * *
>
> "Mentally and morally the Japanese-Americans are similar to whites. The whites score slightly higher on tests of intelligence. This may be due to poorer acquaintanceship of Japanese-Americans with the English language in which the tests are given. * * * Morally the Japanese-Americans

are possibly superior to the whites; at least their record in delinquency and crime is better. * * *

"Considering their opportunities, the second generation have so far made an excellent record. They are eager for education; and they obtain higher marks, at least in junior and senior high school, than the average pupil. Records based on half of those who have graduated from Stanford University and the University of California during 1920-30 indicate that they are progressing satisfactorily.

"Physically there are differences between the two groups. The Japanese-American is shorter and scores lower in strength tests, but on the other hand his reactions are quicker. These differences are probably of little practical significance" (p. 252).

In another of this series of books, *Vocational Aptitudes of Second-Generation Japanese,* these representative statements occur. Particularly significant, in view of the many sweeping comments on "dishonesty, deceit, and hypocrisy" are a number of the excerpts:

"The vocational interests of Japanese and whites are very similar. Their interests correlate between .71 and .94, depending upon the educational status of the groups compared and upon the method of measuring the similarity" (p. 112).

* * * * * * *

"There is little or nothing in the data in this section to warrant the statement that Japanese as a class are tricky, deceitful, and dishonest. Their credit ratings are so nearly equal to those of the whites as to warrant the belief that they behave in practically the same way as their white competitors" (p. 147).

* * * * * * *

"On the basis of an adaptation of Voelker's honesty test, 12-year-old Japanese children obtained an almost perfect score (99.9), with Chinese second (87), in comparison with the score of 50 for Anglo-Saxons; * * *" (p. 154).

* * * * * * *

"We must conclude that the Japanese have made a fine record in this state as far as crime is concerned. As regards both juvenile delinquency and convictions for serious offenses, the records reveal less than their proportionate share of cases" (p. 173).

* * * * * * *

"Adaptability is an important trait, possibly one of the most important, in earning a living. The two rough measures of it, in terms of delinquency-crime and honesty, indicate that the Japanese are superior in this respect to many immigrant groups who have come to this country.

"The most important single measure of an individual is his general intelligence score. This is the best standardized of all psychological tests, and its significance is best established. Review of the literature makes clear that the two racial groups are about equal in this respect" (p. 177).

Another volume of the series is *The Japanese in California*. In view of unsupported charges about the regard for Japan which Americans of Japanese ancestry are alleged to have, a quotation or two from this volume may be apposite, if only to show the difference between prejudice and the results of investigation:

"Practically none of the second generation born and raised in the United States expressed any desire to go to Japan. Some feel that they may be forced to go in order to find positions, but few really want

> to do so if they can find an opening in this country. There is some question whether they will find that there really is any better chance for them in Japan, for competition is very keen there. Also, there seems to be actual antagonism there to American-born-and-raised Japanese, who are looked upon as Americans and not as Japanese" (pp. 122-23).
>
> • • • • • • •
>
> "On the whole, Japanese and whites differ very little regarding school subject best liked, school subjects they are planning to specialize in, and occupational aspirations" (p. 166).
>
> • • • • • • •
>
> "The United States-born second generation are predominantly Christian (47 per cent of the males and 56 per cent of the females) in contrast to 39 per cent of these young people who are Buddhists" (p. 169).

The Japanese were one of the latest immigrant groups to come to this country. The strides that the American-born children have made, in one generation, toward complete Americanization in outlook and ideals has won the attention and praise of all unbiased observers, and consequently there is voluminous literature on the assimilation and the assimilability of Americans of Japanese ancestry.

John H. Whittaker, who had much contact with these young Americans, had this to say many years ago:

> "It is absurd to contend that the Japanese cannot be assimilated when an educated and Christianized Japanese, born and reared on this soil, is almost invariably thoroughly American in his ideas and out of touch entirely with things Japanese. Instead of being incapable of Americanization, the writer has found the innocent belief of the young

> Asiatic born on this soil in the principles of democracy as taught in American schools and repudiated by American practice so embarrassing as to be pitiable. The young Asiatic considers himself an American. He is proud that he is an American and has no desire to be anything else than an American. Anyone who speaks and writes to the contrary has not mingled with the young Asiatic product of our American schools."[110]

Chester H. Rowell has asserted that nothing but race prejudice prevents the recognition of the degree to which assimilation has taken place:

> "There is nothing else against these children. They are just as bright as American children, speak as good English, and have the same manners and impulses; they are American citizens; and of course there is nothing economic in which to compete. It is sheer racial caste. * * *"[111]

Not long before the war began a young American of Japanese ancestry spoke for herself and her group to the Los Angeles District California Federation of Club Women. Her words were a plea that the degree to which the citizen group had identified itself without reservation with this country be realized. She said:

> "We cannot go to Japan, for over there we are foreigners and feel foreign. Our problems in the United States are the difficult ones of fitting ourselves in socially and vocationally, but this country we look upon as our home and our future. We are trying to do our part as American citizens. We ask you to do yours and give us that understanding we must have if we are to become part of the national picture. We have turned our backs on Japan

110. *Japan Review*, April, 1921, pp. 94-95.
111. *Survey*, May 1, 1926, p. 173.

> because we were born in America. We are thankful to live in a democracy and are trying to earn the recognition and respect of fellow Americans. We are proud to know that we have one of the lowest delinquency records of any race in the United States. We are trying to keep off relief rolls, to do our part in supporting the Community Chest and other social efforts.
>
> "In return we ask you to give us understanding, to see that we are treated with equality and justice and to tell those who may be skeptical that we are really good citizens." [112]

That American citizens of Japanese descent are loyal, and that their loyalty can be ascertained on the same basis and in the same manner as the loyalty of other citizens, is demonstrated by the action of the War Department.

On January 28, 1943, the War Department officially announced the organization of a special Japanese American battalion in the Army of the United States for combat service in an active theatre of war, the War Department announcement reading:

> "Loyal Americans of Japanese ancestry will compose a special unit in the United States Army. The War Department announced today that plans have been completed for admission of a substantial number of American citizens of Japanese ancestry to the Army of the United States. This action was taken following study by the War Department of many earnest requests by loyal American citizens of Japanese extraction for the organization of a special unit of the Army in which they could have their share in the fight against the nation's enemies."

---

112. *Los Angeles Times*, Nov. 20, 1941.

Accompanying the War Department announcement was the following statement by Secretary of War Henry L. Stimson:

> "It is the inherent right of every faithful citizen, regardless of ancestry, to bear arms in the nation's battle. When obstacles to the free expression of that right are imposed by emergency considerations, those barriers should be removed as soon as humanly possible. Loyalty to country is a voice that must be heard, and I am glad that I am now able to give active proof that this basic American belief is not a casualty of war."

The War Department announcement concluded:

> "This combat team will include the customary elements of infantry, artillery, engineer and medical personnel. No effort will be spared in developing it into an efficient, well-rounded, hard-hitting outfit."

Following this announcement by the War Department, the President of the United States recognized the desires of "loyal American citizens of Japanese descent" to participate in the defense of American Democratic principles in the following statement directed to Secretary of War Stimson, under date of February 1, 1943:

> "The proposal of the War Department to organize a combat team consisting of loyal American citizens of Japanese descent has my full approval. The new combat team will add to the nearly five thousand loyal Americans of Japanese ancestry who are already serving in the armed forces of our country.
>
> "This is a natural and logical step toward the reinstitution of the Selective Service procedures which were temporarily disrupted by the evacuation from the West Coast.

"No loyal citizen of the United States should be denied the democratic right to exercise the responsibilities of his citizenship, regardless of his ancestry. The principle on which this country was founded and by which it has always been governed is that Americanism is a matter of the mind and heart; Americanism is not, and never was, a matter of race or ancestry. A good American is one who is loyal to this country and to our creed of liberty and democracy. Every loyal American citizen should be given the opportunity to serve this country wherever his skills will make the greatest contribution—whether it be in the ranks of our armed forces, war production, agriculture, government service, or other work essential to the war effort.

"I am glad to observe that the War Department, the Navy Department, the War Manpower Commission, the Department of Justice, and the War Relocation Authority are collaborating in a program which will assure the opportunity for all loyal Americans, including Americans of Japanese ancestry, to serve their country at a time when the fullest and wisest use of our manpower is all-important to the war effort."

In a further proclamation on the subject, the War Department announced to prospective volunteers amongst American Japanese:

"Americans of Japanese blood are wanted to fight for the United States like any other citizens. They are wanted for combat duty where they are fitted for combat duty and for war work where they are best suited for war work. They are wanted because the government and the Army are convinced of their loyalty. And they are wanted not less because of their ability as soldiers and as citizens doing useful work for the American community. You have superior qualifications for the kind of service in which it is intended to use you."

The War Department program to permit loyal American citizens of Japanese descent to serve in the armed forces extends to the Hawaiian Islands. On January 28th, Lieutenant General Delos C. Emmons, Commanding General of the Hawaiian Department of the United States Army and Military Governor of Hawaii, in announcing that he had been directed by the War Department to induct 1500 Americans of Japanese descent residing in the Hawaiian Islands into the United States Army, declared:

> "These volunteers will be formed into combat units on the mainland and will, when trained, be sent into an active theater of operation.
>
> "A large percentage of the officers will be citizens of Japanese ancestry.
>
> "Once in a great while, an opportunity presents itself to recognize an entire section of this country for its performance of duty. All people of the Hawaiian Islands have contributed generously to our war effort. Among these have been Americans of Japanese descent.
>
> "Their role has not been an easy one. Open to distrust because of their racial origin and discriminated against in certain fields of defense effort, they, nevertheless, have borne their burdens without complaint and have added materially to the strength of the Hawaiian area.
>
> "They have behaved themselves admirably under most trying conditions and have bought great quantities of war bonds and by the labor of their hands have added to the common defense.
>
> "In view of these facts and by War Department authority I have been designated to offer Americans of Japanese ancestry an opportunity to serve their country.
>
> "This opportunity is in the form of voluntary combat services in the armed forces. The manner or response and the record these men will establish as fighting soldiers will be one of the best answers

to those who question the loyalty of American citizens of Japanese descent in Hawaii."

Further, the Japanese American Citizens League submits that the cooperation and sacrifice of the Japanese people in permitting themselves to be uprooted from their homes and businesses on the West Coast—at a time when resistance would have been a natural course of action—in order to aid the war effort is more convincing proof of the deep-rooted loyalty of the Japanese to this nation than any artificial test which might be conceived to gauge mass devotion to country. This in spite of the fact that many American Japanese had reason to believe that the so-called "military necessity" was a victory for the economic and political pressure groups so common to California.

On June 15, 1942, Milton S. Eisenhower, then Director of the War Relocation Authority and now Associate Director of the Office of War Information, testified before a House subcommittee on appropriations to the effect that: "from 80 to 85 per cent of the Nisei, who are American-born citizens of Japanese descent and who have never been out of the United States, are loyal to the United States. They have attended only American schools with other American children. They know no other way. Many of them are in the American Army and Navy. Most of them can speak no other language but ours. They are thoroughly Americanized".

It is generally conceded by all thinking Americans that the great majority of Americans of Japanese ancestry are loyal to this country. The argument is that it was impossible to discriminate between the loyal and the disloyal at that time. We contend that if the War Department, in view of their special Japanese American combat team, can distinguish between the loyal and the disloyal

today, the Government could have distinguished between them at the time of the evacuation, especially in view of Mr. Eisenhower's statement regarding the relative proportion of the loyal and disloyal. We believe that American traditions and ideals, as well as the present war aims, required no less.

11. The discriminatory evacuation of American citizens of Japanese ancestry has violated the solemn pledges of high government officials and departments of government.

During the period of tension between the United States and Japan which preceded the attack on Pearl Harbor, Japanese nationals of long American residence sought to learn what their position would be in event of war. On December 4, 1941, Mrs. Eleanor Roosevelt gave an answer—with the official sanction of the State Department and of the Department of Justice, both of which she said she had consulted. Her words were:

> "I see absolutely no reason why anyone who has had a good record—that is, who has no criminal nor anti-American record—should have any anxiety about his position. This is equally applicable to the Japanese who cannot become citizens but have lived here for thirty or forty years and to those newcomers who have not yet had time to become citizens."[113]

The resolve of the government of the United States to pursue a policy of non-discrimination was not altered by the Pearl Harbor attack or the military situation that existed after it. The Justice Department knew better than

113. *New York Times*, Dec. 4, 27:6.

any other department of government the extent of subversive activity and the degree to which it might jeopardize national security. Therefore, when the Attorney General, on December 10, in announcing the number of enemy aliens who had been taken into custody stated, "No alien was apprehended, and none will be, on the score of nationality alone," it was plain that no evidence existed which justified the condemnation or discriminatory treatment of any class or group of aliens, to say nothing of any group of citizens.

Similar expressions came from members of Congress in the early days of the conflict. For instance, on December 14, 1941, Senator Joseph F. Guffey of Pennsylvania spoke on the subject of civil liberties in a nation at war and said:[114]

> "I am completely satisfied that we can take all necessary measures to combat subversive activity without violence to the Bill of Rights. In fact the Department of Justice has already had occasion to warn local executives throughout the Nation that molestation of foreign nationals is to be avoided. This step was necessary lest, in an excess of zeal, our local authorities should trample upon the rights of innocent individuals. * * * We are engaged in war, and we will permit no interference with it by anyone, but we will be just. The protection of our laws will remain available to all; our Constitution will continue to safeguard the weak as well as the strong."

No one will deny that it was the first days of the war, when a surprise attack had wrought great damage, when no one knew precisely where the Japanese forces might be, before the nation had mobilized, that the greatest peril to the country existed. Yet in mid-December the Attorney

114. Congressional Record, Dec. 15, Appendix.

General, on whose shoulders rested the responsibility for internal security, was able to declare.[115]

> "If we care about democracy, we must care about it as a reality for others as well as for ourselves; yes, for aliens, for Germans, for Italians, for Japanese, for those who are with us as well as those who are against us: For the Bill of Rights protects not only American citizens but all human beings who live on our American soil, under our American flag. * * *"[116]

On December 19, 1941, a statement of policy was issued concerning Axis aliens by the Attorney General's office. It was an eloquent reaffirmation of the democratic position already taken. It reads:

> "The United States is now at War. Every American will share in the task of defending our country. It is essential at such a time as this that we keep our heads, keep our tempers—above all, that we keep clearly in mind what we are defending.
>
> "The enemy has attacked more than the soil of America. He has attacked our institutions, our freedoms, the principles on which this nation was founded and has grown to greatness. Every American must remember that the war we wage today is in defense of these principles. It, therefore, behooves us to guard them most zealously at home. * * *
>
> "The great majority of our alien population will continue to be loyal to our democratic principles if we, the citizens of the United States, permit them to be.
>
> * * * * * * *

115. Address at dedication ceremonies of the Thomas Jefferson room in the Library of Congress Annex; printed in Congressional Record, December 16, Appendix.

116. Address at dedication ceremonies of the Thomas Jefferson room in the Library of Congress Annex; printed in Congressional Record, December 16, Appendix.

"So long as the aliens in this country conduct themselves in accordance with law, they need fear no interference by the Department of Justice or by any other agency of the federal government. They may be assured, indeed, that every effort will be made to protect them from any discrimination or abuse. • • •

"Inevitably, there are some among our alien population who are disloyal. The federal government is fully aware of the dangers presented not only by such persons but also by disloyal citizens. The government has control of the activities of these elements. At no time, however, will the government engage in wholesale condemnation of any alien group.

• • • • • • •

"The defense of our country will be hurt, not helped, by any persecution of our non-citizens. If we create the feeling among aliens and other foreign-born that they are not wanted here, we shall endanger our national unity. Such an impression could only give aid and comfort to those enemies whose aim is to infect us with distrust of each other and turn aliens in America against America. To do this would be to defeat what we ourselves are defending."[117]

To halt discrimination against aliens in industry the President of the United States released a statement on January 2 which contained these memorable words:

"Remember the Nazi technique: 'Put race against race, religion against religion, prejudice against prejudice. Divide and conquer.'

"We must not let that happen here. We must not forget what we are defending: Liberty, decency, justice. We cannot afford the economic waste of services of all loyal and patriotic citizens

117. Printed in full in the *Survey Graphic*, January 1942, p. 13.

and non-citizens in defending our land and liberties."[118]

As late as February 1, 1942, Mr. Biddle was confident that there would be no resort to the dubious luxury of hysteria and mass reprisal, for in his address of that date over the Columbia Broadcasting System he scored the very policy which was to be adopted soon afterward:

> "At the same time I want to point out that persecution of aliens—economic or social—can be a two-edged sword. Such persecution can easily drive people, now loyal to us, into fifth-column activities. Economic discrimination against loyal aliens deprives us of skills and manual labor which will become more important as time goes on. It also deprives these people of a livelihood. The logical conclusion of a policy of discrimination is to make of these people public charges. It is entirely unnecessary. And don't forget there are still many Americans in Axis and Axis-controlled countries. Let's not give the Axis countries any excuse for retaliation against innocent Americans living abroad.
>
> "And let us remember, also, that the great majority of the so-called alien enemies came to our shores for the same reason that many of our fathers came—to escape persecution; to enjoy the privileges and obligations of democracy; to raise their children in a free world. These people are loyal to our ideals and loyal to our form of government. Let's encourage that loyalty rather than discourage it. Let us judge people by what they do and not by what they are."

Before the West Coast evacuation of persons of Japanese ancestry, sentiments and pledges of this order

---

118. Reprinted in Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session (Tolan Committee Hearings), Part 29, p. 11,042.

came from nearly every important official in our government. This expressed determination to avoid group condemnation and blanket discrimination centered about the status of *enemy aliens,* it will be noted. Our national leaders, unaware of the strength of organized anti-orientalism on the West Coast and unprepared for the malicious and false rumors that were to inflame public opinion, did not envisage that *American citizens* as well would be drawn into the orbit of intolerance.

This country, now dedicated to a fight for the four freedoms, continues to assert its pre-evacuation principles. In his speech of June 29, 1942, delivered at the very moment when a minority group against whose members no charges had been lodged and for whose members no hearings were being provided was being removed and detained under threat of legal penalty, Paul V. McNutt still found voice to say:[119]

> "Discrimination—based on anything but a man's sheer worth—must go. Discrimination against every race must go—just as economic discrimination must go • • •
>
> "There is a Constitution—the Constitution of the United States—which makes the rights of every citizen clear—a Constitution which establishes those rights in law.
>
> "There is a Bill of Rights without which the little people of these United States would never have ratified that Constitution • • •
>
> "It is unthinkable that our sacrifices shall be in vain or our liberties jeopardized by any provincial prejudices."

These are brave words, but actual events have robbed them of their fire and of conviction. Provincial prejudice *has* raged and our liberties *have* been jeopardized.

---

119. *New York Times,* June 29.

12. American principles have been gravely compromised by evacuation.

The seriousness of what has been done, both from the legal and the social point of view, is recognized by all. The Tolan Congressional Committee, in its first report, seriously questioned the constitutionality of the evacuation policy when it wrote:

> "Recognizing the duties and responsibilities of the military, this committee is also impressed by the fundamental fact that wartime does not automatically suspend the Constitution. Justice is still administered by the courts of our land and martial law has its justification only when these courts are removed by the practical exigencies of warfare. Cases of rebellion or invasion permit a suspension of the writ of habeas corpus under the Constitution, and perhaps it requires no stretch of the imagination or of the law to place within the latter category the recent predatory incursions of enemy submarines and airplanes. But suspension of this writ does not abrogate the fifth and fourteenth amendments, which provide for due process and equal protection of the laws. Even aliens are guaranteed certain protections afforded by the Constitution.
>
> "The most complicating factor in the present situation is that two-thirds of the Japanese ordered to evacuate from designated military areas are citizens of the United States by virtue of their birth in this land. The Executive order of the President empowering the military to designate strategic areas and to prohibit or limit the presence of persons in such areas does not declare that a state of martial law exists in these areas. It is silent on the constitutional rights of citizens. It was frankly an expedient impelled by the critical situation on the west coast. Under our form of government, any questions raised as to the constitutional status of

> persons affected must ultimately be resolved by the courts".[120]

Notwithstanding the announcement of the Western Defense Command that it was military necessity which dictated the removal of Americans of Japanese ancestry from the Pacific slope, one is forced to question the validity of that argument in the light of Lieutenant General John L. DeWitt's statement on April 13, 1943, before a House of Representatives Subcommittee on Naval Affairs, when he declared, according to an Associated Press dispatch:

> "A Jap's a Jap" and "it makes no difference whether he is an American citizen or not * * * I don't want any of them. We got them out. They were a dangerous element. The west coast is too vital and too vulnerable to take chances. * * * You can't change him (American citizens) by giving him a piece of paper. * * *"[120a]

If he has been correctly quoted by the Associated Press, and there is no reason to believe that the press report is incorrect, General DeWitt, who is the commanding general of the Western Defense Command and the individual charged by the President with the responsibility of determining the need for evacuation, holds that Americanism is not a matter of the mind or heart but is determined by race and ancestry. This is a dangerous concept, a line of thought and action pursued by our enemies—by Hitler who believes in the master race and by the Tokyo militarists who have announced the "holy mission" of the Japanese race. It is a concept which is the antithesis of the democratic ideals of the American nation.

General DeWitt's bitter declaration throws open the entire question of the evacuation by fiat of 70,000 Ameri-

120. House Report No. 1911, 77th Congress, 2d Session (Tolan Committee Report), March 19, 1942, pp. 13-14.

120a. *Washington Post*, April 14, 1943.

can citizens without trial or hearing from their homes along the west coast. The army had declared the mass evacuation necessary because of military necessity and the omission of individual hearings had been explained by the fact that there had been not enough time for such tests of loyalty in the face of the existing military situation. It now appears, however, that wholesale evacuation and the abridgment of the citizenship rights of an entire American minority group was born of the blind race prejudice of a single individual.

If a single individual's personal prejudice determined the destinies of so many people, it is indeed a grave compromising of American concepts.

13. Evacuation has been detrimental to the war effort.

Evacuation has been such a sharp reversal of professed governmental policy and such an obvious infringement of personal liberties and constitutional guarantees that only the most conclusive evidence of military necessity and of unquestionable relation to the successful prosecution of the war can justify it. Such conclusive evidence cannot be produced. What can be proved, however, is that the exact opposite is true. It can be demonstrated that evacuation has been most detrimental to the war effort and that, unless this appeal to the court succeeds, its shadow will follow this country to the peace table and into a troubled future.

At a time when all the resources and the highest possible national income is required for the war effort, evacuation has dissipated the possessions and work opportunities of an industrious group. The farmers alone of Japanese ancestry have lost $100,000,000 in investments[121] and millions more have disappeared in the sacrifice of businesses

121. *New York Times*, March 10, 1942.

and personal property. The products and services which these people can offer have been sadly missed; the area from which they were excluded suffers from an acute labor shortage; the agricultural crops in which they specialized have shrunk woefully in quantity and have risen markedly in price. To cite one example: *The Los Angeles Daily News,* February 17, 1943, reported that *The Federal-State Market News Service,* in its annual report on the Southern California fruit and vegetable situation, revealed that "because of the expulsion of the Japanese, consumers in this area paid $20,000,000.00 more for 10,000 truckloads less of perishables during 1942".

Not only has the government lost by the forced impoverishment and enforced idleness of this section of the population but the direct costs to the nation have been considerable as well. In addition to the actual expense of evacuation, the appropriation of the War Relocation Authority for its first year has been $70,000,000. A people who toiled in the national interest and who contributed magnificently during the First World War have become, through no fault of their own, public charges at this critical time when every hand and every talent is so urgently needed.

If this country has lost heavily in manpower, wealth and productivity as a result of the evacuation, Japan has gained a signal victory in the battle of propaganda. And in the exploitation of evacuation news, the Italian and German propagandists are giving the Japanese excellent support.

When Italian diplomats and newspapermen arrived in Rome from the United States in May, 1942, the Tokio radio made much of their tales of the evacuation:

> "Japanese residents in the United States, including Americans of Japanese ancestry, were subjected

to indescribable humiliation and shocking treatment, including lynching at the hands of enraged American mobs, when the outbreak of the Greater East Asia war on December 7 uncapped a wave of anti-Japanese sentiment throughout the United States, * * *.

"Questioned regarding treatment of Japanese residents since the outbreak of war, members of the Italian party said Japanese, irrespective of whether they were Nisei [American born] or not were being subjected to much harsher treatment than Germans and Italians, and huge numbers of them were being interned in concentration camps, * * *.

"Members of the party went on to express the belief that it was apparently the policy of the United States Government not to leave a single Japanese resident, whether he be an American of Japanese ancestry or not, at large."[122]

Soon after this the *Far Eastern Survey*, in an editorial titled "Fuel for Japanese Propaganda", discussed this broadcast and its implications:

"Despite the exaggerations of this story, there is good reason to believe that the United States' policy toward residents of Japanese ancestry is inadvertently playing into the hands of Tokyo propagandists, nullifying our own propaganda efforts, and perhaps affecting the fate of Americans in areas controlled by Japan. Certainly the evacuation of all Japanese, including American citizens born in this country, from the Pacific Coast constitutes harsher treatment than that accorded to Germans and Italians. Tokyo will not be slow to play up any evidence of racial discrimination in its appeal for the sympathies of Filipinos and other Asiatics."[123]

122. *New York Times*, May 23, 1942. From Japanese broadcasts recorded by the Associated Press in New York.
123. *Far Eastern Survey*, June 1, 1942, p. 122.

On August 3, the German-controlled Rome radio utilized the evacuation theme in an Italian-language broadcast directed to the United States:

> "From now on all Americans who love their country will be persecuted without pity. Roosevelt in his folly for bloodshed, has already contrived to have found by his G-men, a police force entirely made up of gangsters, a plot which would have as its aim to turn over the entire Pacific Coast to the Japanese. He has, his press states, that the guilty number 100,000. One can thus already foresee that each defeat he suffers at the hands of the tripartite powers will cost the lives of further innocents."[124]

In the August 28, 1942 issue of the *United States News* further evidence is given of the manner in which evacuation has played into the hands of the Axis:

> "Japan quotes a returning Japanese resident of Los Angeles, as saying that, every time Japan won a victory, more Japanese were interned in America on the pretext of Fifth Column activities, that fear of Japanese air attack was beyond description in Los Angeles, that Jewish traders bought up the household goods of interned Japanese for a song."[125]

That evacuation has been used as a foil and a rationalization for Japan's treatment of American prisoners has been confirmed by *Victory*, the official builetin of the Office of War Information:

> "Obviously intended both as an excuse for the treatment of American prisoners in Japan and to

124. *New York Times*, August 4, 1942.
125. "The American Picture as Painted by the Axis", p. 20.

counteract the effect of the testimony of returned Americans, the Tokyo radio began stating:

"'The treatment accorded Japanese nationals in the United States since Pearl Harbor will go down in history as a smear on the American claim to humanitarianism.'

"While the Japanese propaganda machine was trying to disclaim the atrocities meted out to American prisoners, the Tokyo radio broadcast a threatening editorial from the Shanghai Times, stating, 'The Anglo-American nationals in Japan and occupied China should be herded together and driven into interior regions where there are no modern facilities.'"[126]

The parallel between what has been done in this country and what Tokyo threatens to do is alarming.

Lately, an interesting analysis of Japanese propaganda and our difficulty in counteracting it has been made. Again, it has been found that the evacuation is our greatest handicap, as this citation indicates:

"It is obvious that Japan's domestic propaganda is not adequately challenged by the various arguments just cited. The Tokyo radio, in broadcasts made available by the Office of War Information, appeals constantly to the Japanese people's hatred and fear of the United States and Great Britain. Race issues particularly are emphasized, with frequent recitations of instances of discrimination against Orientals in this country and much stress on the exclusion of Asiatics under our immigration law of 1924. Exaggerated or wholly fictitious accounts of our 'mistreatment' of evacuated Japanese-Americans are headlined. The war is blamed on our imperialistic desire to maintain white suprem-

126. *Victory*, September 29, 1942, p. 30.

> acy over East Asia. Instances of discrimination against progress in America are played up and interpreted as evidence of the hypocrisy of our democratic pretensions. * * *
>
> "The best answer we could make to Japan's appeal to racial hatred would be action proving that the Japanese propagandists are wrong. The indiscriminate internment of all Nisei (American citizens of Japanese parentage) makes us extremely vulnerable, for example, in view of our government's liberal treatment of Italian citizens and even of Germans resident in America."[127]

Not only has evacuation, with its aping of totalitarian methods, been a source of deep satisfaction to our enemies and a mainspring of their propaganda, but it has been the cause of much uneasiness and dissatisfaction among our minority groups at home, and so has been responsible for division and confusion at a time when national unity and faith in democracy are essential. One of the best known students of our national life has stated categorically:

> "The treatment of the Japanese on the Pacific coast has caused alarm and uneasiness among those of foreign extraction. The War Relocation Authority may perform its functions in the most humane fashion possible, but the fact remains that American citizens have been uprooted from their homes and placed in detention quarters."[128]

Members of American minority groups have not been slow to voice their disapproval over what has taken place

---

127. Selden C. Menefee, "How to Speak to Japan." *The Nation*, January 2, 1943, pp. 17-18.

128. Harold F. Gosnell, "Symbols of National Solidarity", *The Annals of the American Academy of Social and Political Science*, September, 1942, p. 160.

and have made logical comparisons of their own positions, present and potential, with the treatment accorded persons of Japanese ancestry. In the official organ of the National Association for the Advancement of Colored People, one of the most eloquent writers for minority groups presents the mood of the largest American minority on this issue:

> "The hapless citizens who have been deprived of their constitutional rights and constitutional protection have the misfortune to include among their ancestors persons of a non-white country with which the United States is now at war. It is the 'non-white' which must be emphasized. American citizens of German, Italian, Hungarian, Bulgarian, or Roumanian ancestry have not been legally discriminated against. It is only our citizens of Japanese ancestry who have been put into concentration camps. They are not 'white.' They are 'not to be trusted.' * * *
>
> "What has happened to these Americans in recent months is of direct concern to the American Negro. For the barbarous treatment of these Americans is the result of the color line. This cannot be too often repeated or too clearly understood. These men, women, and children have been taken from their pleasant homes and long-cultivated farms and businesses because their skins are yellow and their eyes have the tell-tale Mongolian eyefold. Americans of German or Italian descent are not being discriminated against. Wendell Willkie and Fiorello LaGuardia are not being stuck into filthy and noisome shacks in vile concentration camps because they are of German and Italian ancestry; they are white. * * *
>
> "Negroes have been told again and again: 'Work quietly, be industrious, mind your own business, and you will get justice even in America.'

That is what these yellow-skinned Americans believed. They worked, cheerfully and industriously. They turned deserts into beautiful and fertile farmland, grew vegetables and fruits for themselves and for others. They distinguished themselves at school, abstained from politics, had the lowest crime-rate of any group in the entire country. * * *

"What has been their reward? They have been plundered of everything, and crowded in concentration camps fit only for pigs. If Westbrook Pegler and the southern senators have their way, they will be deported to Japan when the war is over. There is already a move to deprive them of citizenship—a move headed by the 'Native Sons of the Golden West' and the Senate's Immigration Committee. * * *

"* * * It is significant that southern senators and congressmen are among the most rabidly anti-Japanese. For, if Asiatic-Americans can be reduced to bondage, deprived of citizenship and of property, the same thing can be done to Afro-Americans and to Jews.

"This is an integral part of the struggle for human and racial equality. It concerns every believer of democracy and human equality, regardless of color. 'For even as ye have done it unto the least of these my brethren, ye have done it unto me.' "[129]

Since no people have suffered more at the hands of the Japanese military or have offered more heroic resistance to their assaults than the Chinese, it is interesting to note the reactions of persons of Chinese ancestry in this country to this method of handling those of Japanese ancestry. A Chinese scholar, Dr. Cheng Kun Cheng, submitted this

129. Harry Paxton Howard, "Americans in Concentration Camps", *The Crisis*, September, 1942, pp. 281-284.

representative statement to the Tolan Committee during its West Coast hearings:

> "I am a citizen of the Republic of China. I was born and brought up there. I was formerly assistant professor at the University of Amoy in South China and now I am teaching at the University of Washington. I am deeply interested in the war in my country in particular and in the Pacific in general * * * I am also convinced that, in order to prevent similar calamities from wreaking havoc among the people of the world in the future, one of the most effective steps to be taken by the Allied Nations, besides relentless prosecution of the war, is to establish in their respective territories an example of magnanimity in their treatment of the enemies and their descendants.
>
> "During my travels in Free China 1939-41, I found that the leaders in Chungking were very farsighted in having adopted the policy of inculcating in the minds of the Chinese masses discrimination between the Japanese warlords and the Japanese people. Since the surprise attack on Pearl Harbor, I have been watching closely the general policy of the Government of the United States toward the Japanese aliens and the American-born Japanese.
>
> "Judging from what I saw and heard in this Pacific Northwest, the consensus of opinion here seems to favor a wholesale removal of the alien and American-born Japanese. This, so far as I could see, is essentially the result of deep-rooted racial prejudice on the part of the average American who either could not or would not allow himself to be convinced that biologically the Japanese are not much different from himself. And it is this prejudice which has manifested itself in newspaper editorials and over the radio in this part of the country during the past two months."[130]

130. Hearings before the Tolan Committee, Part 30, pp. 11606-7.

American-Chinese have translated their protest and sympathy into action, as the following example reveals:

> "The other familiar argument is that the Japanese could not be protected against possible outbreaks of mob violence. But the principle that the remedy for such a threat lies not in the protection of the threatened group but in taking it into 'protective custody' has very ominous implications for every racial minority within our frontiers. With characteristic far-sighted wisdom some of the Chinese in the west seem to have recognized this point; the Chinese community in Salt Lake City took up a contribution for the relief of Japanese evacuees. This might seem to be an act of extraordinary idealism, considering what Chinese in China have suffered at the hands of the Japanese. But it is quite probable that the Chinese action was also motivated by the consideration that what happened to the Japanese today might happen to them tomorrow, under the influence of some wave of racial bigotry."[131]

That a great democracy should stoop to practice racial discrimination in the midst of a struggle to secure the four freedoms has come as a shock and disillusionment, not without unpleasant implications for the future, to thoughtful Chinese. By such acts as evacuation we are sowing the seeds of ugly convictions, such as this disturbing prediction of Dr. Lin Yutang, "Present conditions are building up for a third World war on racial lines, very likely with the Germans on the side of the Anglo-Saxons, against the vast yellow and black populations."[132]

---

131. William Henry Chamberlin, "Civil Liberties: Slogan or Reality?" *The Christian Century*, January 13, 1943, pp. 43-45.

132. *San Francisco Chronicle*, May 17, 1942.

Against this dangerous drift and tide, this loss of manpower, this senseless gift to enemy propagandists, this prodigal waste of goodwill and unity at home, this opportunistic drive of groups long organized for hate to inflate their fanatic grudge into a national and international issue, the decision of this court can act as a mighty barrier, one that may yet turn our minds toward our cause and our faces toward the actual foe.

Conclusion

American citizens of Japanese descent, for whom the Japanese American Citizens League speaks, bear no rancor or ill will toward their Government, although they feel that they have been made the victims of war prejudices and hysterias; nonetheless, they will continue to offer their lives to their country—the United States of America—for service in our armed forces, or for any other similar war effort, despite this, or similar, discrimination or injustices, in the hope that they may become "Better Americans in a Greater America".

But they look to this Court, as the guardian of the liberties of all the people of the United States—of which Japanese Americans are a living and integral part—with confidence to protect them from such discrimination as this, which is so alien to the American way of life, not for their sake alone, but also for the sake of every minority racial group in American life.

In this brief, we believe we have presented a fair, but by no means complete, survey of the sociological, economic and constitutional problems presented by the evacuation from the West Coast of American citizens of Japanese ancestry. This action, unprecedented in American history,

is a challenge both to our Constitution and to the lofty principles for which our country has dedicated itself in this global war.

Respectfully submitted,

SABURO KIDO, *National President, J.A.C.L.*
War Relocation Center, Poston, Arizona
(formerly of San Francisco, California).

A. L. WIRIN, Los Angeles, California.

HUGH E. MACBETH, Los Angeles, California.

CLIFFORD FORSTER, New York City, N. Y.,
*Counsel, Japanese American Citizens League, Amicus Curiae.**

* This brief was prepared with the active cooperation of Mike Masaoka, National Secretary and Field Executive, J.A.C.L.

Appendix A

PORTION OF STATEMENT BY MIKE MASAOKA, SECRETARY, JAPANESE AMERICAN CITIZENS LEAGUE, EXPLAINING WHY HE VOLUNTEERED. FROM THE PACIFIC CITIZEN, OFFICIAL PUBLICATION OF THE JAPANESE AMERICAN CITIZENS LEAGUE, FEBRUARY 4, 1943:

I have volunteered for service in the Army of the United States, and specifically for the special combat team composed of loyal Japanese Americans which is now being organized by the War Department.

As an American citizen, and particularly an American citizen of Japanese ancestry, I could do no less.

I volunteered because I had to keep faith.

I had to keep faith with "my" America, an America which has granted me innumerable benefits far beyond those meted out to other peoples in other parts of the world and an America which still holds greater promise for justice, equality and opportunity in the years to come for our people and for me than any other country. I know that we, as a minority group, have been called upon to bear—what seems to us—far more than our share of hardships because of the circumstance of war. I know that this America of ours will win the war and that this nation, under God, will be greater than ever. I know that the injustices and sacrifices which we have been forced to undergo will be compensated for in some way, provided that we prove now our right to that compensation. It has often been my personal opinion that too many of us summarily expect and demand every conceivable right and privilege of citizenship without being willing to accept and discharge the accompanying obligations and responsibilities. I believe that the obligation to bear arms in the de-

fense of home and country is one way of assuming that responsibility.

I had to keep faith with myself. I have to live with myself, and so I always want to be in a position to be proud of what I have done. I have made, and will make, many mistakes. But I want to be able to say that those mistakes were made not because I was afraid of death, but because I knew that I was right and honest with myself. I want to be able, in the years to come, to know that my children and their children after them will not be forced to suffer, as we have suffered, because I was not visionary enough, or courageous enough, to be baptized under the fire of enemy guns and to prove beyond all doubt that we who are Americans in spite of our Japanese faces are loyal to the land of our birth, even unto death.

I volunteered because I have confidence in this government and the majority of the American people. The very fact that the army itself, when it is pressed with the serious problems of fighting a global war, has come forth with this plan which constitutes an affirmation of their trust and faith in us is more than indicative of their desire to aid us regain our rightful status. This action on the part of the most important department of our government in wartime, when ordinary volunteering for the average citizen has ceased, is the greatest endorsement which our group could receive.

I have a stake in America. I believe that it is worth fighting for. As an American, as the national secretary and field executive of the JACL, I volunteered because I sincerely feel that I could do no less.

Appendix B

Books and Pamphlets

Akagi, R. H. — The Second Generation Problem; Some Suggestions Toward its Solution. New York: The Japanese Students Asso. in N. America, 1926. Pamphlets, Series 1, No. 1.

Bailey, Thomas A. — Theodore Roosevelt and the Japanese-American Crisis. Stanford Univ. Press, 1934.

Beach, Walter G. — Oriental Crime in California. Stanford Univ. Press, 1932.

Bell, Reginald — Public School Education of Second-Ge ation Japanese. Stanford Univ. Press, 1935.

Blakeslee, George H. — Conflicts of Policy in the Far East

Blakeslee, George H. — The Recent Foreign Policy of the United States. New York: The Abdingdon Press, 1925.

Blakeslee, George H. — Japan and Japanese-American Relations. G. E. Stechert & Co., 1912.

Boddy, Elias Manchester — Japanese in America. 1921.

Bogardus, Emory S. — Immigration and Race Attitudes. New York: D. C. Heath and Company, 1928.

Borchard, Edwin M. — The Diplomatic Protection of Citizens Abroad
or
The Law of International Claims. Banks Law Publishing Co., New York, 1927.

Brown, Francis J. and Roucek, Joseph Slabey — Our Racial and National Minorities, 1939.

Buck, Pearl S. — American Unity and Asia. New York: John Day, 1942.

Burnight, Ralph — The Japanese in Rural L. A. County. University of Southern California, Sociological Monograph No. 16, June, 1920.

Burrows, Edwin G. — Chinese and Japanese in Hawaii During the Sino-Japanese Conflict. Hawaiian Group, American Council Institute of Pacific Relations, Honolulu, Hawaii, 1939.

Clark, Thomas Blake — Remember Pearl Harbor. New York: Modern Age Books, Inc., 1942.

Appendix B

Coolidge, Mary R.	Chinese Immigration. Henry Holt, 1909.
Darsie, Marvin L.	"The Mental Capacity of American-Born Japanese Children." Comparative Psychology Monographs, vol. III. Baltimore: Williams & Wilkins Co., 1926.
Dulles, Foster Rhea	Forty Years of American-Japanese Relations. New York: Appleton-Century, 1937.
Du Puy, William Atherton	Hawaii and its Race Problem. U. S. Government Printing Office, Wash., 1932.
Feldman, Herman	Racial Factors in American Industry. Harper and Brothers, 1931.
Flournoy, Richard W. and Hudson, Manley O.	A Collection of Nationality Laws of Various Countries. New York: Oxford Press, 1929.
Gillett, Clarence Bennett, John C. Fisher, Galen	A Touchstone of Democracy: The Japanese in America.
Iglehart, Charles Conrad, Joseph	Council for Social Action of the Congregational Christian Churches, 289 Fourth Avenue, New York.
Gulick, Sidney L.	The American-Japanese Problem. New York, 1914.
Gulick, Sidney L.	Toward Understanding Japan. Macmillan Co. New York, 1935.
Hyde, Charles Cheney	International Law. Chiefly as Interpreted and Applied by the United States. Boston: Little, & Company, 1922. Vol. One.
Ichihashi, Yamato	The Japanese in the U. S. Stanford Univ. Press, 1932.
Inui, Kujo Sue	The Unsolved Problem of the Pacific. Tokyo, 1927.
Iyenaga, T. and Sato K.	Japan and the California Problem. G. P. Putnam's Sons, 1921.
Johnson, Herbert B.	Discrimination Against the Japanese in California: a Review of the Real Situation. Berkeley: Courier Pub. Co., 1907.
Kawakami, K. K.	The Real Japanese Question. The Macmillan Company, New York, 1921.

Appendix B

Kuykendall, Ralph and Gregory, Herbert E.	A History of Hawaii. The Macmillan Company, 1933.
Malloy, Wm. M.	Treaties, Conventions, International Acts, Protocols and Agreements between The United States of America and Other Powers. 1776-1909. 61st Congress, 2d Session. Senate Document No. 357.
	Treaties, Conventions, International Acts, Protocols and Agreements between The United States of America and Other Powers. 1910-1923. 67th Cong. 4th Session. Senate Document No. 348. Vol. VIII caintaining Treaties, Conventions, International Acts, Protocols, and Agreements between the U. S. of Amc ica and Other Powers, 1776-1909. Washington Government Post Office, 1923.
McKenzie, R. D.	Oriental Exclusion. Chicago: University of Chicago Press, 1928.
Mears, E. G.	Resident Orientals on the American Pacific Coast, 1928.
Millis, Harry A.	The Japanese Problem in the United States. New York: The Macmillan Company, 1915.
Milton, George Fort	Abraham Lincoln and the Fifth Column. New York: Vanguard Press, 1942.
Miyamoto, S. F.	Social Solidarity Among the Japanese in Seattle. Unversity of Washington Pub. in the Social Sciences, Seattle. Vol. II, pp. 57-130, 1939.
Moore, John Bassett	American Diplomacy. New York and London, Harper & Brothers Publishers, 1905.
Moore, John Bassett	A Digest of International Law, 1906.
Palmer, Albert Wentworth	Orientals in American Life. New York: Friendship Press, 1934.
Park, Robert E.	The Immigrant Press and its Control. Harper & Brothers, 1922.
Park, Robert E. and Miller, Herbert A.	Old World Traits Transplanted. Harper & Brothers, 1921.
Paul, Rodman W.	The Abrogation of the Gentlemen's Agreement. Cambridge, 1936.

Appendix B

Pritchard, Earl H.	"The Japanese Exclusion Bill of 1924." Research Studies of the State College of Pullman, Washington, Vol. II, No. 2, May 1930.
Radin, Paul	The Italians of San Francisco, Their Adjustment and Acculturatio. Monograph No. 1; Introduction and Part I SERA Project 2-F2-98. July 1935.
Reuter, E. B. (editor)	Race and Culture Contacts. New York: McGraw-Hill, 1934.
Schricke, B.	Alien Americans. New York, 1936.
Smith, William C.	Americans in Process: A study of Our Citizens of Oriental Ancestry. Ann Arbor: Edwards Brothers, 1937.
Smith, William C.	Americans in the Making: The Natural History of the Assimilation of Immigrants. Appleton-Century, 1939.
Spier, Leslie	"The Growth of Japanese Children Born in America and in Japan." University of Washington Publications in Anthropology, Vol. III, 1929-30.
State Board of Control of California	California and the Oriental. 1922.
Stearns, Marjorie R.	History of the Japanese People in Oregon. Thesis Series, No. 4, University of Oregon, Eugene, Oregon, 1937.
Steiner, Jesse Frederick	The Japanese Invasion. A study in the Psychology of Inter-Racial Contacts. Chicago: A. C. McClurg & Co., 1917.
Stowell, Ellery Cory	International Cases: Arbitrations and Incidents Illustrative of International Law as Practiced by Independent States. 1916.
Stowell, Ellery Cory	International Law. A Restatement of Principles in Conformity with Actual Practice. New York: Henry Holt & Company, 1931.
Strong, Edward Kellogg and others	Vocational Aptitudes of Second-Generation Japanese in the United States. Stanford University Press, 1933.
Strong, Edward K.	Japanese in California. Stanford University Press, 1933.

Appendix B

Strong, Edward K. — The Second-Generation Japanese Problem. Stanford University Press, 1934.

Thomas, Norman — Democracy and the Japanese American. Pamphlet published by Post War World Council, 112 East 19th St., New York City. Issued July 20, 1942.

Tolan — Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session. *National Defense Migration*, Part 29, San Francisco Hearings, February 21 and 23, 1942, "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942.

Tolan — Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session. *National Defense Migration*, Part 30, Portland and Seattle Hearings, February 26 and 28, and March 2, 1942, "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942.

Tolan — Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session. *National Defense Migration*, Part 31, Los Angeles and San Francisco Hearings, March 6, 7 and 12, 1942, "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." Washington: United States Government Printing Office, 1942.

Treat, Payson J. — Japan and the United States, 1853-1921 (Revised and continued to 1928). Stanford University Press, 1928.

Tsiang, I-Mien — The Question of Expatriation in America Prior to 1907. Johns Hopkins University Studies in Historical and Political Science. Series LX, No. 3, 1942.

Tupper, Eleanor — Japan in American Public Opinion. New York: The Macmillan Company, 1937.

Appendix B

'oung, Charles H
:eed, Helen R. Y.
and others — The Japanese Canadians. University of Toronto Press, 1938.

'oung, Donald — American Minority Peoples. New York: 1932.

'oung, Kimball — "Social Psychology of Oriental-Occidental Prejudice." Institute of Pacific Relations, New York: 1929.

The Survey of Race Relations: Tentative Findings; A Canadian-American Study of the Oriental on the Pacific Coast, Stanford University Press, 1925.

Appendix C

Articles

Adams, Romanzo — "Japanese Language Schools." *The Friend.* Aug. 1925: pp. 178. Sept. 1925: pp. 197-198.

Anonymous, an intelligence officer — "The Japanese in America. The Problem and the Solution." *Harpers Magazine.* Oct. 1942. No. 1109, pp. 490-497.

Bailey, Thomas A. — "California, Japan, and Alien Land Legislation of 1913." *Pacific Historical Review,* Vol. I. Mar. 1932, pp. 36-59.

Baldwin, Roger — "Japanese-Americans and the Law." *Asia.* Sept. 1942, pp. 518-19.

Bendetsen, Col. Karl R.G.S.C. — "The Japanese Evacuation Democracy Protects Basic Rights of Evacuee." *Vital Speeches of the Day,* Vol. VIII, No. 17, pp. 541-44. Delivered before Commonwealth Club, S. F. May 20, 1942.

Bendiner, Robert — "Cool Heads or Martial Law." *The Nation,* Feb. 14, 1942, pp. 183-4 (Dated Wash., Feb. 7).

Biddle, Francis — "Axis Aliens in America—Statement of Policy Issued Dec. 19, 1941, by Attorney General." *Survey Graphic,* Jan. 1942, pp. 13 ff.

Biddle, Francis — "The Problem of the Alien Enemies." *Free World,* Aug. 1942, Vol. III, No. 3, pp. 201-4.

Bird, John — "Our Japs Have Gone to Work." *Country Gentleman,* Aug. 1942.

Bogardus, Emory S. — "Current Problems of Japanese Americans." *Sociology and Social Research,* July-Aug. 1941, Vol. XXV, pp. 562-571.

Booth, Gracia — "You Can't Black Out the Stars." *Christian Century.* Mar. 25, 1942, pp. 383-5.

Bouslog, Charles S. — "Hawaii Shows Japan and Asia." *Asia and the Americans,* Feb. 1943, pp. 107-110, 11-114.

Briggs, A. H.
Loofbourow, L. L.
Johnson, H. B. — "The Japanese in California." *The Japan Review,* April 1920, Vol. IV, No. 6, pp. 166-170.

Appendix C

Buell, Raymond Leslie — "The Development of the Anti-Japanese Agitation in the United States." *Political Science Quarterly*, Dec. 1922; Mar. 1923.

Buell, Raymond Leslie — "Some Legal Aspects of the Japanese Question." *American Journal of International Law*, Jan. 1923, 17: 29-49.

Burnight, Ralph — "The Japanese in Rural Los Angeles County." *University of So. California; Sociological Mono. No. 16*, June 1920, 16 pp.

Chamberlin, William Henry — "Civil Liberties: Slogan or Reality?" *Christian Century*, Jan. 13, 1943, pp. 43-45.

Chamberlin, William Henry — "Our Allies Inside Japan." *Common Sense*, Nov. 1942, pp. 385-87.

Chamberlin, William Henry — "Why Civil Liberties Now?" *Harpers Magazine*, Oct. 1942, No. 1109, pp. 525-34.

Christian Century, The — "Hitlerism Threatens the California Japanese." Mar. 11, 1942, pp. 309-10.

Christian Century, The — "Citizens or Subjects?" Apr. 29, 1942, pp. 551-53.

Christian Century, The — "Justice For The Evacuees." June 10, 1942, pp. 750-52.

Christianity and Crisis — "A Blot on Our Record." Apr. 20, 1942.

Clark, Thomas Blake — "Some Japanese In Hawaii." *Asia and the Americas*, Dec. 1942, pp. 723-25.

Clark, Thomas Blake — "Japanese in Hawaii." *New Republic*, Sept. 14, 1942, pp. 308-10.

Clark, Thomas Blake — "U. S. Soldiers with Japanese Faces." *Reader's Digest*, Feb. 1943.

Cohn, E. J. — "Legal Aspects of Internment." *The Modern Law Review*, Vol. 4 (1941) pp. 203.

Colket, G. Hamilton — "Suppressing Japanese Schools in Hawaii." *Nation*, 115: 558-9, Nov. 22, 1922.

Colwell, Ernest
McWilliams, Carey
Worth, Louis — "Aliens in Our Midst." *University of Chicago Round Table*, May 10, 1942.

Costigan, Howard — "The Plight of the Nisei." *Nation*, Feb. 14, 1942, pp. 185-6.

Appendix C

Cranston, Alan — "Enemy Aliens." *Common Ground*, Winter, 1942, Vol. II, No. 2, pp. 109-112.

Cushman, Robert E. — "Civil Liberties." *The American Political Science Review*, Feb. 1942, Vol. XXXVII, No. 1.

Dean, Arthur L. — "Assimilation in Hawaii." *Institute of Pacific Relations*, June 30-July 14, 1925, pp. 116-19.

Dewey, John — "Public Opinion in Japan." *New Republic*, Nov. 16, 1921, Supplement, 28: 15-18.

Dimock, M. E. — "Wartime Treatment of Aliens." *Vital Speeches*, May 15, 1942, Vol. (?) p. 496.

Dutcher, Salem — "Right of Expatriation." *American Law Review*, 1877.

Duveneck, F. B. — "Evacuating American Citizens." *Nation*, May 9, 1942.

Embree, John F. — "The Japanese." *Washington, D. C. Smithsonian Institution*, 1943, pp. 12-42.

Emmons, Delos C. — "Radio Address on Sunday, December 21, 1941." *Hawaii Educational Review*, Jan. 1942, pp. 137-38.

Emmons, Delos C. — "Radio Address of Jan. 15, 1942." *Hawaii Educational Review*, Jan. 1942, pp. 137.

Far Eastern Survey (editorial) — "Fuel for Japanese Propaganda." June 1, 1942, pp. 122.

Christian Century (Federal Council, etc.) — Federal Council of Churches of Christ in America Reports Adopted at the National Study Conference at Delaware, Ohio, Mar. 3-5. Mar. 25, 1942, pp. 390-97.

Fehr, J. C. — "Dual Citizenship and International Problems." *Current History*, Dec. 1930.

Fischer, Louis — "West Coast Perspective." *Nation*, Mar. 7, 1942, pp. 276-77.

Fisher, Galen M. — "Our Japanese Refugees." *Christian Century*, Apr. 1, 1942.

Fisher, Galen M. — "Seams That Have Gaped Under Wartime Heat." *Religious Education*, Sept.-Oct. 1942, Vol. 37, No. 5, pp. 273-77.

Appendix C

Fisher, Galen M. — "Japanese Evacuation from the Pacific Coast." *Far Eastern Survey*, June 29, 1942, Vol. XI, No. 13.

Fithian, Theodore — "Are We Outlawing Japanese Americans?" *Common Sense*, Sept. 1942, pp. 314-16.

Flournoy, Richard W. — "Dual Nationality and Election." *Yale Law Journal*, Apr. 1921, Vol. 30, No. 6, pp. 545-567.

Flournoy, Richard W. — "Naturalization and Expatriation." *Yale Law Review*, 1922, Vol. XXXI, pp. 852.

Flournoy, Richard W. — "Revision of Nationality Law of the United States." *American Journal of International Law*, Vol. 34, 1940, No. 1, Jan. pp. 36-46.

Foote, Caleb — "Democracy In Detention." *Fellowship*, Dec. 1942. Vol. VIII, No. 12, pp. 205-07.

Foote, Caleb — "Have We Forgotten Justice." *Fellowship*, May 1942, Vol. 8, No. 5, pp. 79-81.

Fukuda, T. — "Some Data on the Intelligence of Japanese Children." *American Journal of Psychology*, 1923, xxxiv, pp. 599-601.

Gosnell, Harold F. — "Symbols of National Solidarity." *Annals of American Academy of Social and Political Science*, Sept. 1942, Vol. 223, pp. 157-61.

Gulick, S. L. — "Loyalty in Hawaii." *Christian Century*, Feb. 5, 1941, p. 193.

Hall, Clarence — "Japanese Evacuation in Retrospect." *Christian Advocate*, Oct. 15, 1942.

Hall, Clarence — "Exclusion Act—1942 Model." *Christian Advocate*, Oct. 22, 1942.

Hall, Clarence — "Inside Nisei America." *Christian Advocate*, Oct. 29, 1942.

Hall, Clarence — "Little Nisei, What Now." *Christian Advocate*, Nov. 5, 1942.

Harrison, Earl G. — "Axis Aliens in an Emergency." *Survey Graphic*, Sept. 1941, pp. 465-68.

Hauser, Ernest O. — "America's 150,000 Japanese." *American Mercury*, Dec. 1941, pp. 689-97.

Appendix C

Hearings before the Joint Committee on Hawaii. Congress of the U. S. 75th Congress, Second Session; Pursuant to S. Con. Res. 18 (Statehood for Hawaii) Oct. 6 to 22, 1937, Washington, D. C.

Hosokawa, William — "The Plight of an American Minority." *Far Eastern Review*, Jan. 1941, Vol. XXXVII, No. 1.

Howard, Harry Paxton — "Americans in Concentration Camps." *The Crisis*, Sept. 1942, pp. 281-84 301-2.

Hyde, Charles Chaney — "The Nationality Act of 1940." *American Journal of International Law*, Apr. 1941, No. 2, pp. 314-319.

Iglehart, Charles — "Citizens Behind Barbed Wire." *The Nation*, June 6, 1942, Vol. 154, No. 23, pp. 649-51.

Indian Education — "Democracy at the Crossroads." Jan. 15, 1943, No. 80, pp. 5-8.

Inui, Kiyo Sue — "California's Japanese Situation." *The Annals of the American Academy of Political and Social Science*, Vol. XCIII, 1921, pp. 97-104.

Irish, John P. — "The Japanese Issue in California." *The Annals of the American Academy of Political and Social Science*, Vol. XCIII, 1921, pp. 74-76.

Irish, John P. — "Anti-Japanese Agitation in California." *Japan Review*, Sept. 1920, 4; pp. 314-36.

Ito, Paul Kinji — "Anthropometric Study of New-Born Infants of Japanese Parents in America." *American Journal of Diseases of Children*." Aug. 1936, Vol. 52, No. 2, pp. 321-30.

Japan Review, The — "California's Treatment of the Chinese." Mar. 1921, pp. 84-86.

Jordan, David Starr — "The Japanese in California." *Japan Review*, April, 1921, pp. 94-95.

Junzo, Sasamori — "What are the Japanese Doing Toward Americanization?" *Japan Review*, Dec. 1920, Vol. V, No. 2, pp. 22-24.

Kanazawa, Tooru — "After Pearl Harbor—New York City." *Common Ground*, Spring, 1942. Vol. II, No. 3, pp. 13-14.

Appendix C

Kempner, Robt. M. W. — "The Enemy Alien Problem in the Present War." *American Journal of International Law*, July, 1940, Vol. 34, No. 3, pp. 443-458.

King, Samuel Wilder — "Hawaii Has No Race Problem." *Asia*, Mar. 1939. Vol. 39, No. 3, pp. 151-2.

Klineberg, Otto — "Race Prejudice and the War." *The Annals of the American Academy of Politcal and Social Science*, 1942, Vol. 223, pp. 190-98.

Koessler, Maximilian — "Enemy Alien Internment With Special Reference to Great Britain and France." *Political Science Quarterly*, Mar. 1942, Vol. 57, No. 1.

Lai, Kum Pui — "Attitudes of Chinese in Hawaii Toward Their Language Schools." *Sociology and Social Research*, Nov.-Dec. 1935, 20, 141.

Lamb, Robert K. — "Mass Relocation of Aliens." Staff Director, House Committee Investigating National Defense Migration.
Address delivered by Mr. Lamb at the National Conference of Social Work in New Orleans on May 12, 1942. Distributed as Interpreter Release Vol. XIX, No. 29, Series C: Foreign Born in U. S. A., No. 14.

Lasker, Loula D. — "Friends or Enemies?" *Survey Graphic*, June, 1942.

LaViolette, Forrest E. — "The American-Born Japanese and the World Crisis." *Canadian Journal of Economics and Political Science*, Vol. VII, No. 4 (Nov. 1941), pp. 517-27.

LaViolette, Forrest E. — "Japanese Evacuation in Canada." *Far Eastern Survey*, July 27, 1942, Vol. XI, No. 15, pp. 163-67.

Living Age — "Socialism in Japan." Jan. 31, 1920, 304: 269-272.

Long, Oren E. — "A Letter to Teachers." *Hawaii Educational Review*, Jan. 1942, pp. 133-36.

Loomis, Charles F. — "Can Hawaii Take It?" *Hawaii Educational Review*, Apr. 1942, p. 231.

Lusky, Louis — "Minority Rights and the Public Interest." *Yale Law Journal*, Dec. 1942, Vol. 52, No. 1.

Appendix C

Lynch, Robert Newton — "The Development of the Anti-Japanese Movement." *The Annals of the American Academy of Political and Social Science*, 1921, Vol. XCIII, pp. 47-50.

Mackay, Margaret M. — "Brother Enemy." *Asia*, Mar. 1942, pp. 196-97.

Mackay, Margaret M. — "Honolulu Flashes." *Asia*, Apr. 1942, pp. 234-35.

Mackenzie, Norman — "The Legal Status of Aliens in Pacific Countries." 1937.

Marshall, James — "West Coast Japanese." *Collier's*, Oct. 11, 1941, Vol. 108, No. 15, pp. 14-15.

Masaoka, Mike — "The Japanese American Creed." *Common Ground*, Spring, 1942. Vol. II, No. 3, p. 11.

McEvoy, J. P. — "Our 110,000 New Boarders." *The Reader's Digest*, Mar. 1943, pp. 65-68, condensed from The Baltimore Sunday Sun, Mar. 1943.

McWilliams, Carey — "Japanese Out of California." *New Republic*, Apr. 6, 1942, pp. 456-7.

McWilliams, Carey — "California and the Japanese." *New Republic*, Mar. 2, 1942, Vol. 106, No. 9, pp. 295-97.

McWilliams, Carey — "Moving the West-Coast Japanese." *Harper's Magazine*, Sept. 1942, Vol. 185, No. 1108, pp. 359-69.

McWilliams, Carey — "Japanese Evacuation: Policy and Perspectives." *Common Ground*, Summer, 1942, Vol. II, No. 4, pp. 65-72.

Menefee, Selden C. — "How to Speak to Japan." *Nation*, Jan. 2, 1943, pp. 17-18.

Michinari, Fujita — "Japanese Associations in America." *Sociology and Social Research*, Vol. 12, 1928-29, p. 211.

Miyamoto, Shotaro Frank — "Immigrants and Citizens of Japanese Origin." *The Annals of American Academy of Political and Social Science*, Sept. 1942, Vol. 223, pp. 107-13.

Miyaoka, Tsunejiro — "The Japanese Law of Nationality and the Rights of Foreigners in Land Under the Laws of Japan." International Conciliation: Carnegie Endowment for International Peace: Division of Intercourse and Education. No. 206 Jan. 1925.

Appendix C

Moore, John Basset — "The Doctrine of Expatriation." *Harpers*, Vol. CX, 1905, pp. 234-236.

Morrow, Rising Lake — "Early American Attitude Toward Naturalized Americans Abroad." *American Journal of International Law*, 1936, 650 30.

Morrow, Rising Lake — "Early American Attitude Toward Expatriation." *American Journal of International Law*, Vol. 26, 1932.

Nation — "Magnifying Our Law." Aug. 2, 1941.

Negoro, M. — "A Defense Against an Unmerited Attack." *Japan Review*, Vol. V, No. 14, Dec. 1921, pp. 253-256.

Neuberger, Richard L. — "Pacific Coast Morale." *Asia*, July 1942, Vol. 42, No. 6, pp. 335-7.

New Republic — "An American Nuremberg Law." Aug. 10, 1942.

Nickel, Geo. D. — "Evacuation, American Style." *Survey, Midmonthly*, April, 1942.

Nickel, Geo. D. — "Evacuation: American Style, Part II." *Survey Midmonthly*, Oct. 1942, pp. 262-65.

Nodera, Isamu — "Second-Generation Japanese and Vocations." *Sociology and Social Research*, 21: 464-66, May-June, 1937.

Oakie, John H — "Japanese in the United States." *Far Eastern Survey*, Jan. 26, 1942. Vol. XI, No. 2.

Obana, Tsutomu — "Problems of the American born Japanese." *Sociology and Social Research*, Nov.-Dec. 1934, 19: pp. 161-65.

Oyama, Mary — "After Pearl Harbor—Los Angeles." *Common Ground*, Spring, 1942. Vol. II, No. 3, pp. 12-13.

Ozaki, Yukio — "Crisis in Constitutional Government." *Japan Review*, Dec. 1920, Vol. V, No. 2, pp. 27-29.

Park, Robert E. — "A Race Relations Survey." *Journal of Applied Sociology*, Vol. 8, No. 4, April, 1924, pp. 195-205.

Park, Robert E. — "Behind Our Masks." *Survey*, May 1, 1926, Vol. 56, No. 3, pp. 135-39.

Appendix C

Park, Robert E. — "Racial Assimilation in Secondary Groups." *American Journal of Sociology*, Mar. 1914, Vol. 19, pp. 606-23.

Perry, D. R. — "Aliens in the U. S." *The Annals of the American Academy of Political and Social Science*, Sept. 1942.

Piersal, C. W. — "Protective Custody of the Japanese." *Christian Century*, Aug. 12, 1942.

Robinson, Wm. — "Outcast Americans." *American Magazine*, Sept. 1942.

Rowe, James, Jr. — "The Alien Enemy Program—So Far." *Common Ground*, Summer, 1942, Vol. 2, No. 4, pp. 19-24.

Rowell, Chester H. — "Clash of Two Worlds." *Survey Graphic*, Jan. 1942, pp. 9-13.

Sandifer — "A Comparative Study of Laws Relating to Nationality at Birth and Loss of Nationality." *American Journal of International Law*, Vol. 29, 1935, p. 248.

Sandmeyer, Elmer C. — "California Anti-Chinese Legislation and the Federal Courts. *The Pacific History Review*, Vol. V, 1936, No. 3, pp. 189-211.

Saturday Evening Post (editorial) — "Is It a Race War?" Apr. 11, 1942, Vol. 214, No. 41.

Schmoe, Floyd W. — "America's Protective Custody." *Fellowship*, July, 1942.

Schmoe, Floyd W. — "Japanese Americans and the Present Crisis." *Christendom*, Vol. VII, No. 2, Spring, 1942, pp. 201-212.

Sellin, Thorsten — "Race Prejudice in the Administration of Justice." *American Journal of Sociology*, Vol. 41, Sept. 1935, pp. 212-17.

Smith, Roy L. — "The Un-American Legion." *Christian Advocate*, Oct. 22, 1942.

Smith, William C. — "The Second Generation Oriental in America" *Institute of Pacific Relations*, Honolulu, 1927.

Smith, William C. — "Changing Personality Traits of Second Generation Orientals in America." *American Journal of Sociology*, Vol. 32, May 1928, pp. 922-29

Appendix C

Smith, William C. — "Second Generation Oriental Americans." *Journal of Applied Sociology*, Vol. X, Nov.-Dec. 1925, pp. 160-68.

Smith, William C. — "Born American, But—." *Survey*, May 1926, p. 167.

Snow, Edgar — "China's Japanese Allies." *Asia*, June 1939, Vol. 39, No. 6, pp. 341-44.

Spence, Lewis — "Bushido: Its Rise and Effacement." *The Quarterly Review*, No. 553, July 1942, Vol. 279, pp. 76-85.

Spier, Leslie — "The Growth of Japanese Children Born in America and Japan." *University of Washington Publications on Anthro.*, 1929-30, Vol. III, pp. 1-30.

Stephenson, G. T. — "Race Distinctions in American Law." *American Law Review*, Jan.-Feb. issue, 1909.

Stewart, Senator — Report on "Custody of Japanese Residing in the United States." *77th Congress, 2d Session Senate Report No. 1496*, June 18, 1942—Ordered to be Printed.

Stonequist, Everett, V. — "The Restricted Citizen." *The Annals of American Academy of Political and Social Science*, Sept. 1942, Vol. 223, pp. 149-56.

Svensrud, Marian — "Attitudes of the Japanese Toward Their Language Schools." *Sociology and Social Research*, Vol. 17, p. 259.

Tajiri, Larry — "Democracy Corrects Its Own Mistakes." *Asia and the Americas*, April, 1943, pp. 213-216.

Taylor, Frank J. — "The People Nobody Wants." *Saturday Evening Post*, May 9, 1942, p. 24.

Taylor, Paul S. — "Our Stakes in the Japanese Exodus." *Survey Graphic*, Sept. 1942, Vol. XXXI, No. 9, p. 373ff.

Terry, Paul — "Is the High School Developing a Citizenship Intelligently Informed of Japanese-American Relations?" *School and Society*, Oct. 26, 1923, pp. 475-80.

Thomas, Norman — "Dark Day for Liberty." *Christian Century*, July 29, 1942, pp. 929-931.

Appendix C

Tom, Kim-Fong — "Function of the Chinese Language School." *Soc. and Social Research*, Vol. 25, pp. 557-61.

Tsuboi, S. — "The Japanese Language School Teacher." *Journal of Applied Soc.*, XI, pp. 160-65, 1926.

Ukita, K. — "Liberal Movements in Japan." *Outlook*, 126: 678-80. 1920.

United States News — "The United States Through Axis Eyes." P. 20. Aug. 28, 1942.

Victory — "Official Bulletin of the Office of War Information, Washington." Sept. 29, 1942, p. 30.

Villard, O. G. — "Shall it Be a War of Color?" *Christian Century*, Feb. 4, 1942.

Wigmore, Professor — "American Naturalization and the Japanese." *American Law Review*, 1894.

Wills, Grace E. — "The West Coast Japanese." *Asia*, Aug. 1942, pp. 487-90.

Wist, Benj. O. — "An Open Letter to Teachers." *Hawaii Ed. Review*, Feb. 1942, pp. 165-68.

Wittke, Carl — "German Immigrants and Their Children." *The Annals of the American Academy of Political and Social Science*, Sept. 1942. pp. 85-91.

Yale Law Journal — "Alien Enemies and Japanese-Americans; a Problem of Wartime Controls." June 1942, Vol. 51, No. 8, pp. 1316-38.

Yanga, Chitoshi — "The Military and the Government in Japan" *American Political Science Review*, June 1941, Vol. 35, No. 3, pp. 530-39.

Yoshino, S. — "Japan's Rising Tide of Liberalism." *Living Age*, 307: pp. 154-55. 1920.

Young, John P. — "The Support of the Anti-Oriental Movement." *The Annals of the American Academy of Political and Social Science*, Vol. 34, 1909, pp. 231-38.